

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA		DOCKET 4:20-CR-318
VS.		OCTOBER 3, 2022
		8:54 A.M.
KEITH TODD ASHLEY		SHERMAN, TEXAS

VOLUME 6 OF 8, PAGES 1385 THROUGH 1637

REPORTER'S TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE AMOS L. MAZZANT, III,
UNITED STATES DISTRICT JUDGE, AND A JURY

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1 (Open court, defendant present jury not present.)

2 THE COURT: Please be seated.

3 First thing, I just wanted to advise the parties
4 that Juror Number 14 reached out, yesterday tested positive
5 for COVID; so I released Juror 14 to come today.

6 What else? Was there some other issue y'all
7 wanted to raise?

8 MR. WHALEN: Yes, your Honor.

9 Last night -- our paralegal, Ms. Wilson, is a
10 member of a Facebook group called Official McKinney Moms.
11 I think you have a copy of it there. And someone posted
12 last night -- it says (as read): "Has anyone served on a
13 jury for murder? I feel like I have some traumatic
14 response to what I saw and heard. I cannot sleep at all.
15 Wondering if anyone has had similar experience. Just
16 desperately wanting sleep. I'm so exhausted."

17 And then on the second page of what we've tendered
18 somebody replied, a Heidi Weiss (as read): "If this was
19 recent, I may know the case you heard. If so, I'm so
20 sorry. I know way too many details and the whole situation
21 makes my mama heart hurt. I would say talking to someone
22 would help, possibly counseling. If you want to message me
23 and it's the case that I think it went to trial last week,
24 you are welcome to. I can listen. Regardless, prayers,
25 you find peace and rest."

1 So we have -- I have no -- whether it's related to
2 this case or not. But the fact it is in McKinney, which is
3 in the Eastern District, and it relates to a case that
4 started or was heard -- started to be heard last week and
5 there is that reference to last week, we would request or
6 think it would be prudent for the Court to inquire of the
7 jurors to see whether or not anyone at all has posted
8 anything to Facebook and has been contacted by somebody
9 outside of that.

10 THE COURT: Well, have you checked to see -- I
11 mean, none of these are jurors in this case, correct?

12 MR. WHALEN: The post was anonymous; so there is
13 no way to know exactly who posted it, from what -- our
14 initial review of it.

15 THE COURT: Ms. Rattan?

16 MS. RATTAN: Well, the post, of course, as the
17 Court points out, is anonymous. But even if it were one of
18 our jurors, this doesn't violate any order that the Court
19 has given the jury. The Court told the jury you can tell
20 people that you're serving on a jury. What they've done
21 here is said, "I'm serving on a murder jury" and, very
22 understandably, they're upset. Nothing about this is
23 outside the instructions that the Court has given this
24 jury.

25 Additionally, we've checked with Collin County

1 District Attorney's Office; and they've reported that they
2 had two murder cases go to trial last week. So that would
3 also be consistent with this type of an email (*sic*).

4 Additionally, it's not unheard of that someone
5 would move to another county and stay in the same friend
6 group; and Mr. Fine reports that there are also murder
7 cases that went to trial in Dallas County last week.

8 So there's no way to tie this directly to this
9 case; and even if there were, the person has done nothing
10 inappropriate.

11 THE COURT: Well, I don't feel compelled to
12 inquire of the jury of this, Mr. Whalen. I will again
13 repeat my instructions, you know, at the end of today about
14 reminding them not to look at anything -- any newscasts and
15 I'll expand that to -- because there has at least been one
16 story about the case but also, you know, don't look at any
17 social media referring to the case and again reminding them
18 they shouldn't be posting anything about the case or
19 anything like that, too. So I will do that.

20 I don't think -- there is nothing that ties this
21 to our case directly so -- and I think Ms. Rattan is right.
22 I mean, if this is a juror that posted this, other than
23 they are not supposed to be posting about the case, I don't
24 think it's that egregious so --

25 MR. WHALEN: And the only thing I would say that

1 the concern is that somebody said "if you need to reach out
2 to me," whether or not there were some conversations. And
3 that's really the bigger concern, is whether there is some
4 outside influence. So --

5 THE COURT: Well, again --

6 MR. WHALEN: And also I understand, too -- we
7 don't have the ability to search Collin County to see what
8 cases went to trial last week.

9 THE COURT: Right.

10 MR. WHALEN: And so we understand that.

11 But I would like -- I understand the
12 Court's ruling. We would like to have that marked as --
13 whether it's Defendant's Exhibit 1 -- as part of the record
14 for purposes of appeal.

15 THE COURT: I understand.

16 MR. WHALEN: All right.

17 THE COURT: And I will certainly do that.

18 MR. WHALEN: All right. Thank you.

19 THE COURT: I will give it to my courtroom deputy
20 after -- I'm leaving it on my desk here so I can remind
21 myself to make sure I say something at the end of the day.

22 MR. WHALEN: Thank you, your Honor.

23 THE COURT: Anything else?

24 MS. RATTAN: No, just in terms of the schedule
25 this morning. The government will call two more witnesses,

1 and then we plan to rest.

2 THE COURT: Okay.

3 MR. WHALEN: And, your Honor, the government
4 tendered a copy of a PowerPoint they're going to use with
5 Agent Rennie. We do have some objections to it, and I
6 don't know whether you want us to take them up now or later
7 on.

8 THE COURT: I assume that's their second witness?

9 MS. RATTAN: It is.

10 THE COURT: So I guess we should take it up now --

11 MR. WHALEN: Okay.

12 THE COURT: -- because I assume the first witness
13 is not very long.

14 Okay. Go ahead, Mr. Whalen.

15 MR. WHALEN: Your Honor, as it -- do you have the
16 exhibit?

17 THE COURT: I do not.

18 MS. RATTAN: May I approach?

19 THE COURT: Yes.

20 MS. RATTAN: It's been added to the Court's book.
21 Additionally, here is --

22 THE COURT: Oh, I'm sorry.

23 MS. RATTAN: -- just a loose copy.

24 No, no. We should have told you. 134.

25 THE COURT: Okay. I have it.

1 MR. WHALEN: Your Honor, if you would turn your
2 attention to page 28 of the slide. I think it's listed as
3 134028.

4 THE COURT: Ms. Rattan, there is a page of, I
5 think, some notes.

6 MS. RATTAN: Oh, may I approach?

7 THE COURT: So if you want to approach and get
8 that.

9 MS. RATTAN: That would be inadvertent.

10 THE COURT: No, I understand. I haven't looked
11 it, just --

12 MS. RATTAN: Thank you.

13 THE COURT: Okay. Page 28.

14 MR. WHALEN: Yes, your Honor. Under the
15 caption "February 19, 2020," it states on the slide -- the
16 proposed slide "Keith Ashley carries/possesses in
17 furtherance a firearm to James Seegan's residence."

18 We believe that is a jury issue and improper
19 testimony and prejudicial for that to be listed on the
20 slide. That's a legal conclusion that the jury is supposed
21 to decide, not for Agent Rennie to testify about.

22 THE COURT: Ms. Rattan?

23 MS. RATTAN: That would be something that goes to
24 the weight, not the admissibility of the language. That's
25 something that can be brought up on cross-examination,

1 perhaps highlighted through an objection at the time that
2 the witness reaches it.

3 THE COURT: Okay. Overruled.

4 What else?

5 MR. WHALEN: And then we would object to page 30
6 with the caption that says "Keith Ashley attempts to take."
7 That with Agent Rennie testifying to the word "attempt,"
8 that is a legal definition that the jury is entitled to
9 figure out on their own; and it would be improper for Agent
10 Rennie to make a legal conclusion and supplant his opinion
11 for that of the jury.

12 MS. RATTAN: It's already been testified to.
13 Arthur Hilson was the bank representative of Texas Capital
14 Bank; and he very clearly testified that the morning of
15 February 21st someone attempted, from the defendant's IP
16 address, to reach Mr. Seegan's bank account.

17 THE COURT: Okay. Overruled.

18 MR. WHALEN: And we would object to Slide --
19 page 31, (as read): "Keith Ashley takes 20,000 from James
20 Seegan's account." I think the word "take" in this
21 particular case, with Agent Rennie testifying to, it is
22 different because the jury charge does have a -- you know,
23 the statute has the word "take" in it and therefore, once
24 again, it is him opining and reaching a legal conclusion
25 and supplanting his view for that of the jury and it would

1 be improper for him to do so and we would object to that
2 slide as well and any testimony around it.

3 THE COURT: Ms. Rattan, same --

4 MS. RATTAN: Yes, your Honor.

5 THE COURT: Okay. Overruled.

6 Anything else, Mr. Whalen?

7 MR. WHALEN: Not at this time, your Honor.

8 THE COURT: Okay. Very good.

9 And let me just ask a question before we bring the
10 jury in. I didn't get any comments from the government
11 regarding the charge; but from the defense, you had raised,
12 I think, six issues. The one about --

13 MR. WHALEN: Before I cut you off, your Honor, I
14 think the government did respond late last night --

15 THE COURT: Oh, okay. I didn't see that.

16 MR. WHALEN: -- to that -- at 11:54 p.m.

17 MS. RATTAN: We work late.

18 THE COURT: Okay. My lawyer didn't get that so --

19 MS. RATTAN: Sorry. May we resend it, your Honor?

20 THE COURT: Yeah, please do.

21 And there is a question maybe on the spelling.
22 Also just go ahead and add in Ms. Conrad to it, too, so I
23 can see that.

24 Okay. So Number 1, of course, I'll remove the
25 issue regarding -- that was only -- the issue of the

1 defendant testifying was only put in there with the
2 prospects of if he would.

3 On the second issue was -- I typically don't name
4 all of the experts, so I just have a general expert issue,
5 so I don't usually -- I mean, we declared certain people to
6 be held as experts; but usually I don't include all their
7 names.

8 The third one was the confession instruction.
9 I'll remove that.

10 The fourth one was the issue of deliberate
11 ignorance. Ms. Rattan, what's the government's -- I don't
12 know that it's appropriate in this case to include that.

13 MS. RATTAN: We agree.

14 THE COURT: Okay. It was something you requested
15 but -- so I'll remove that as well.

16 Number 5 was the issue regarding attempt and a
17 conspiracy for the robbery language. I think he is correct
18 on that. Ms. Rattan, you agree or disagree?

19 MS. RATTAN: We agree, and that's -- we suggested
20 it in our email as well.

21 THE COURT: Okay. So, yeah, I'll go ahead and
22 remove that.

23 And then the last one was the definition of
24 "territorial jurisdiction." We're going to add that, of
25 course.

1 The only thing I'm going to change is the venue --
2 the general venue instruction is going to be moved over to
3 924(c) charge. It's not part of the murder. The murder is
4 the territorial jurisdiction of the United States.

5 We can talk about that later; but, I mean, we did
6 not have the definition, which is an element of the offense
7 under 1111 so -- but I thought it would be confusing, so we
8 moved the general venue instruction which is applicable to
9 the 924(c) count.

10 MS. RATTAN: Yes, your Honor.

11 THE COURT: Okay.

12 MS. RATTAN: Well, and we raised multiple issues
13 and commented on the defendant's. I don't know. Maybe --
14 because I cut and pasted Mr. Ruiz's email. Anyway, we've
15 just resent it.

16 THE COURT: Okay. He's going to forward it to me
17 and -- I haven't looked at those yet, so we'll deal with
18 that afterwards.

19 Okay. Anything else before I bring the jury in?

20 MS. RATTAN: No, your Honor.

21 MR. WHALEN: No, your Honor.

22 THE COURT: Okay. Let's go ahead and bring the
23 jury in.

24 (The jury enters the courtroom, 9:06 a.m.)

25 THE COURT: Okay. Please be seated.

1 Ladies and gentlemen, welcome back. I hope you
2 had a nice weekend. It was a complete washout for my
3 football teams although I won in my fantasy football
4 league, but all of my other teams lost but -- sorry, I
5 digress. But welcome back. Hope your teams all won.

6 Okay. The government's next?

7 MS. RATTAN: Thank you, your Honor. The United
8 States recalls Matt Wylie.

9 THE COURT: Sir, you understand you're still under
10 oath?

11 THE WITNESS: Yes, your Honor.

12 THE COURT: Okay. Go ahead, Ms. Rattan.

13 MS. RATTAN: Thank you, your Honor.

14 DIRECT EXAMINATION OF MATTHEW WYLIE

15 RECALLED ON BEHALF OF THE GOVERNMENT

16 BY MS. RATTAN:

17 Q. Please state your name and go ahead and spell your last
18 name again.

19 A. Matthew Wylie, W-Y-L-I-E.

20 Q. And, of course, you work for the FBI. You're a CPA and
21 a financial analyst.

22 A. Correct.

23 Q. You've testified multiple times in this trial about
24 financial issues and essentially what happened to the Ponzi
25 scheme victims' money; is that right?

1 A. Correct.

2 MS. RATTAN: May we publish Government's
3 Exhibit 56A?

4 THE COURT: Yes, you may.

5 BY MS. RATTAN:

6 Q. Now, this is a slide that you've testified to before.
7 It essentially is what happened to James Seegan's \$150,000
8 that he gave to the defendant; is that right?

9 A. Correct.

10 Q. And we did an overview of this, and none of it went to
11 an investment; is that correct?

12 A. Correct.

13 Q. And, in fact, you saw money going back to other
14 investors and money going to Mr. Seegan?

15 A. Correct.

16 Q. Then let's look at Government's Exhibit 56B. That was
17 \$150,000.

18 MS. RATTAN: Now 56B, page 1.

19 56B, page 1.

20 BY MS. RATTAN:

21 Q. Okay. And this is Victim James Seegan as well, and
22 this was \$120,000; is that right?

23 A. Correct.

24 Q. Okay. So those are two instances that you've already
25 covered in terms of what happened to Mr. Seegan's money

1 that he thought he was investing with the defendant
2 historically.

3 Let's move forward in time and I want to ask you
4 about the time period of April of 2019 and I want to look
5 at Mr. Seegan's investment with the defendant in April of
6 2019.

7 Did you review Keith Ashley's records as it
8 relates to the month of April of 2019 to determine whether
9 there was another amount of money that James Seegan gave to
10 the defendant?

11 A. Yes, I did.

12 Q. Okay. Let me direct your attention to Government's
13 Exhibit 8A, page 175.

14 Okay. Can you explain to us -- we're just jumping
15 into a record here. Can you explain to the jury what this
16 record is?

17 A. This is a bank statement provided by BB&T for the KBKK,
18 LLC, account ending in 8725.

19 Q. Okay.

20 A. This page right here shows -- at the top it's
21 withdrawals, and at the bottom it's the deposits into the
22 account.

23 Q. And this account is KBKK and it's BB&T, Branch Banking
24 and Trust. And that was the defendant, Keith Ashley's bank
25 account; is that right?

1 A. Correct.

2 Q. So we're looking at April of 2019 and we were talking
3 about money from James Seegan and down here, under
4 "Deposits, credits and interest," it says that there was an
5 incoming wire transfer of \$225,000; is that right?

6 A. Correct.

7 Q. And could you tell, based on these records, where the
8 \$225,000 came from?

9 A. Yes.

10 Q. Let me direct your attention to Government's 8A,
11 page 822.

12 Is this the \$225,000 transfer?

13 A. It is.

14 Q. Okay. So it comes in on April 1st of 2019, and it's
15 from who?

16 A. James Seegan.

17 Q. James Seegan is the originator. That's the person
18 sending it.

19 And the beneficiary is who?

20 A. KBKK, LLC.

21 Q. And then, in fact, it has Keith Ashley's name there; is
22 that right?

23 A. Yes.

24 Q. So April of 2019 \$225,000 come into Keith Ashley's
25 account from James Seegan.

1 MS. RATTAN: And let's go back to page 175. 8A,
2 157.

3 BY MS. RATTAN:

4 Q. And can you give us an overview of what was going on
5 with this money?

6 A. So after the money came in, it was disbursed to a few
7 other accounts owned by Mr. Ashley; and then there was also
8 significant activity at casinos.

9 Q. So the first thing you said is that a portion of the
10 \$225,000 went to other accounts that were Mr. Ashley's?

11 A. Correct.

12 Q. And is that consistent with how you saw him move
13 investor money?

14 A. Yes.

15 Q. Comes into KBKK and he puts it out in his other
16 accounts?

17 A. Yes.

18 Q. Now, in this instance he did that but then he also used
19 this account, his KBKK account, and made expenditures; is
20 that right?

21 A. Yes.

22 Q. So if you could just -- and you can touch the screen up
23 there and direct us to certain events.

24 But is he spending money at casinos?

25 A. Yes.

1 Q. Can you walk us through that?

2 A. So on 4-4 there are two debit card purchases at Choctaw
3 Casino, here and there.

4 On 4-12 there's two purchases at American
5 Airlines, there and there.

6 On 4-12 there is another debit card purchase at
7 Choctaw Casino.

8 On 4-16 there's two more purchases at Choctaw
9 Casino.

10 On 4-22, three additional purchases at Choctaw
11 Casino.

12 And then on 4-29 there's one, two, three, four,
13 five, six -- seven purchases at Golden Nugget Casino in Las
14 Vegas.

15 Q. So there's -- would you say significant involvement
16 with two separate casinos in two separate states?

17 A. Correct.

18 Q. He's spending money in Oklahoma at Choctaw and in Las
19 Vegas, Nevada, at the Golden Nugget?

20 A. Correct.

21 Q. And based on your evaluation of this \$225,000 coming
22 in, does it appear that Mr. Seegan's money, James Seegan's
23 money, was spent by the defendant, Keith Ashley, gambling?

24 A. Yes.

25 Q. Now, also in here we see where it says "ACH

1 settlement," right there.

2 A. Yes.

3 Q. What is "ACH settlement"? What does that mean?

4 A. Those are account-to-account transfers from the
5 account.

6 Q. So sending money from KBKK just to another account?

7 A. Correct.

8 Q. And did you check to see what money was being
9 transferred?

10 A. Yes.

11 Q. And to what accounts?

12 A. Yes.

13 Q. Let me direct your attention to 8A, page 1180.

14 MS. RATTAN: I believe it's 8A, 1180.

15 Maybe 7A?

16 BY MS. RATTAN:

17 Q. And while we're attempting to pull it up, these were
18 account-to-account transfers, the ACH transfers, in
19 April of 2019, correct?

20 A. Correct.

21 Q. Can you tell the jury where those account transfers --
22 where was the money going?

23 A. Other investors.

24 Q. And when you say "other investors," what do you mean?

25 A. Mr. Shteyngart, Mr. Willmon, and Mr. Seegan.

1 Q. So the \$225,000 comes in from Mr. Seegan in April of
2 2019; and it goes to -- the money goes to Choctaw, Golden
3 Nugget, and other investors?

4 A. Correct.

5 Q. Does this appear to be a Ponzi scheme to you?

6 A. Yes.

7 Q. And does it look like Mr. Seegan's money was diverted
8 for entertainment for the defendant?

9 A. Yes.

10 Q. Now let me ask direct your attention to February
11 of 2020. So now we're moving into this time period right
12 here, February of 2020. And let's look at the defendant,
13 Keith Ashley's actual banking records and see what he was
14 doing in February of 2020.

15 MS. RATTAN: If we can look at 8A, page 127.

16 BY MS. RATTAN:

17 Q. Okay. Can you explain to us what this is?

18 A. This is an account statement for February 2020 for the
19 KBKK, LLC, account at BB&T ending in 8725.

20 Q. So -- this is the end of the month, so it's going to
21 summarize the month of February of 2020?

22 A. Correct.

23 Q. So tell us what was happening in this month.

24 A. So in this month it received \$20,000 from James Seegan;
25 and then it has various activity, including additional

1 withdrawals at casinos.

2 Q. And go ahead and point out the casino withdrawals for
3 us.

4 A. So on 2-10 we have three debit card purchases at
5 Choctaw Casino as well as two ATM withdrawals in Durant,
6 Oklahoma, which is the location of Choctaw Casino.

7 MS. RATTAN: And then if we can look at page 128.
8 8A, page 128.

9 BY MS. RATTAN:

10 Q. And this is that same February statement. You said
11 that there was a wire coming in and that that was from
12 Mr. Seegan; is that right?

13 A. Correct.

14 Q. And that was \$20,000 and it's on February 21st of 2020;
15 is that right?

16 A. Correct.

17 Q. So the \$20,000 wire came in. And then what's going on
18 in the account? We covered the first page, and now let's
19 look at the second page.

20 A. So prior to that wire, there were other debit card
21 purchases at casinos, there, there;

22 Another ATM withdrawal at Durant, Oklahoma, which
23 is the location of Choctaw Casino;

24 Outgoing wires to other accounts owned by Keith
25 Ashley;

1 Another debit card purchase at a travel plaza in
2 Durant, Oklahoma, the location of Choctaw Casino.

3 Q. Okay. So the day that the wire comes in is
4 February 21st of 2020. But the day before, February 20th
5 of 2020, he is in Durant, Oklahoma; is that right?

6 A. So for this one he's in Durant, Oklahoma, 2-18; and
7 then the charge posts on 2-20.

8 Q. Okay. It posts 2-20.

9 But on 2-18 it looks like he's in Durant,
10 Oklahoma; is that right?

11 A. Correct.

12 Q. And, of course, 2-18 of 2020 is the day before James
13 Seegan dies; is that right?

14 A. Correct.

15 Q. And it looks like James -- or, rather, Keith Ashley is
16 in Durant, Oklahoma. And we know from his previous history
17 that he goes to Choctaw there; is that right?

18 A. Correct.

19 Q. Now, we've also got credit card records for the
20 defendant; is that right?

21 A. Correct.

22 Q. And did you check his credit card records for
23 February 18th of 2020?

24 A. Yes.

25 Q. And did the credit card records show that on

1 February 18th of 2020, that the defendant was in Durant,
2 Oklahoma?

3 A. Yes.

4 Q. And gambling?

5 A. Yes.

6 Q. Let me direct your attention to Government's
7 Exhibit 11A.

8 MS. RATTAN: If we can look at page 2025.

9 BY MS. RATTAN:

10 Q. Okay. Can you explain to us what this is?

11 A. This is a bank statement from Chase for the account
12 ending in 2589, which is owned by Mr. Ashley.

13 Q. And it's for February of 2020; is that right?

14 A. Correct.

15 Q. And what does it show is going on on February 18th of
16 2020?

17 A. On February 18th there were three debit card purchases
18 at Choctaw Casino in Durant, Oklahoma, totaling
19 approximately \$6,000.

20 Q. Okay. So here's the purchases right here the night
21 before or the day before Mr. Seegan dies; and then the
22 amounts are two, four, six -- eight; is that right?

23 Two, four, six --

24 A. Yes, 6,000 --

25 Q. Oh, wait.

1 A. -- approximately.

2 Q. Okay. I included the 11th.

3 So if we're just looking at the 18th -- because
4 he's at Choctaw on the 3rd, spends \$2,000;

5 The 7th, \$2,000;

6 The 7th, \$2,000;

7 The 11th, \$2,000; and,

8 Then on the 18th, the day before Mr. Seegan dies,
9 there's 18, 18, 18, 2, 4, 6, and then an ATM withdrawal
10 back in Allen for \$600; is that right?

11 A. Yes.

12 MS. RATTAN: Thank you, your Honor. I'll pass the
13 witness.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION OF MATTHEW WYLIE

16 BY MR. WHALEN:

17 Q. Mr. Wylie, how are you?

18 A. Doing well.

19 Q. You stated on direct examination, or seemed to agree
20 with Ms. Rattan, that there is an entry in the bank records
21 and, therefore, that meant Mr. Ashley was in Durant,
22 Oklahoma.

23 Do you remember that?

24 A. Yes.

25 Q. Okay. And is it fair to say that from the bank records

1 you cannot say who used the card, correct?

2 A. I believe Mr. Ashley was the only authorized signer on
3 the card.

4 Q. But have you ever known someone to give their card to
5 somebody else?

6 A. Yes.

7 Q. Okay. So fair to say just because there is a bank
8 entry in there -- all it says is money was withdrawn using
9 that card, correct?

10 A. Correct.

11 Q. Okay.

12 MR. WHALEN: I'll pass the witness.

13 THE COURT: Anything additional?

14 MS. RATTAN: No, your Honor.

15 THE COURT: Can the witness be fully excused at
16 this time?

17 MS. RATTAN: Yes, please.

18 MR. WHALEN: Yes, your Honor.

19 THE COURT: Okay. Sir, you are free to leave.

20 Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Okay. What's next?

23 MS. RATTAN: We'll recall Jason Rennie, Special
24 Agent Jason Rennie.

25 THE COURT: Okay. Agent Rennie, you understand

1 you're still under oath?

2 THE WITNESS: I do, your Honor.

3 THE COURT: Ms. Rattan, go ahead.

4 MS. RATTAN: Thank you.

5 DIRECT EXAMINATION OF JASON RENNIE

6 RECALLED ON BEHALF OF THE GOVERNMENT

7 BY MS. RATTAN:

8 Q. Please state your name again.

9 A. Jason Rennie.

10 Q. And, of course, you're the lead FBI agent on this
11 investigation, this case, this prosecution?

12 A. I am.

13 Q. In support of the evidence here, did you evaluate the
14 evidence and determine what the interstate nexus and venue
15 was on the different counts that have been charged in the
16 Indictment?

17 A. I did.

18 Q. And did you prepare something to aid the jury in
19 understanding your testimony?

20 A. I did.

21 MS. RATTAN: Your Honor, at this point we'll offer
22 Government's Exhibit 134 and 97.

23 THE COURT: Which exhibits, Ms. Rattan?

24 MS. RATTAN: 134 and 97.

25 THE COURT: Okay.

1 MR. WHALEN: Your Honor, as it relates to
2 Exhibit 97, we would object to predicate and
3 authentication; and as to 134, we will renew our previous
4 objections stated to the Court.

5 THE COURT: Okay. Ms. Rattan?

6 MS. RATTAN: I can ask the agent some questions
7 about Exhibit 97, your Honor.

8 THE COURT: Go ahead.

9 MS. RATTAN: Okay. Thank you.

10 BY MS. RATTAN:

11 Q. Agent Rennie, you're familiar with Government's
12 Exhibit 97; is that right?

13 A. I am.

14 Q. And can you describe what Exhibit 97 is?

15 A. Actually, do you have a copy of it?

16 Q. Let's see. It's the tracking that was based on Agent
17 Sedwick's --

18 A. Oh, yes.

19 It's a video which essentially mirrors Agent
20 Sedwick's testimony related to the location of Mr. Ashley's
21 cell phone, the cell tower locations during the day -- the
22 morning of February 19th of 2020.

23 Q. And was it prepared based on Agent Sedwick's testimony
24 but also using the cell tower information that was obtained
25 under a search warrant from AT&T, which was the defendant's

1 cell phone carrier?

2 A. It was.

3 Q. And, in fact, is it a presentation that tracks the
4 defendant's cell site records and also uses Agent Sedwick's
5 explanation to explain to the jury where the defendant was
6 and what he was doing on February 19th of 2020?

7 A. Sure.

8 It's just a video depiction of the data that was
9 utilized with Agent Sedwick during his testimony which was
10 received pursuant to a search warrant from AT&T.

11 Q. Okay.

12 MS. RATTAN: Your Honor, I believe that supports
13 the admission of Government's Exhibit 97.

14 MR. WHALEN: Same objection, your Honor. Doesn't
15 state who created it.

16 MS. RATTAN: It's not relevant who created it.
17 This witness has reviewed it and adopted it.

18 THE COURT: Okay. Overruled. 97 will be
19 admitted.

20 BY MS. RATTAN:

21 Q. And, of course, you did review and adopt Exhibit 97?

22 A. I did.

23 Q. And it's accurate?

24 A. It is.

25 Q. And you carefully used the cell site tower information

1 to prepare it?

2 A. Correct.

3 Q. So back to interstate nexus and venue. Government's
4 Exhibit 134 combined with Government's Exhibit 197 (*sic*)
5 focuses on that, on the interstate nexus and the venue for
6 the counts in the Indictment; is that right?

7 A. It does.

8 Q. Well, let me direct your attention to Government's 134,
9 page 1.

10 Can you explain what this is?

11 A. Sure.

12 It's the start of a PowerPoint. Page 1 is a
13 depiction of the interstate and venue for Count 1 in the
14 Indictment, which is a \$150,000 wire transfer on May
15 the 5th, 2016.

16 Q. Okay. And Count 1 of the Indictment, as you've noted
17 here, charges the defendant with wire fraud. And that
18 would be the \$150,000 wire that was sent by James Seegan to
19 BB&T and the defendant's bank; is that right?

20 A. Correct.

21 Q. So you evaluated that wire, and you analyzed it for the
22 interstate nexus and the venue; is that right?

23 A. Correct.

24 Q. Okay. Explain that to the jury, please.

25 A. As the jury heard during the testimony of the BB&T

1 banking witness, the BB&T banking witness confirmed that
2 all wire transfers that involve BB&T contained within the
3 evidence that's been presented at trial all pass through --
4 were interstate and pass through Lumberton, North Carolina.

5 Therefore, on May the 5th of 2016, when the
6 victim, James Seegan, sent \$150,000 to KBKK, LLC, account
7 at BB&T ending in 8725, based upon the testimony and the
8 evidence that's been presented, the wire transfer was
9 interstate, thus passed from Mr. Seegan's account in Texas
10 through Lumberton, North Carolina, ultimately -- with the
11 ultimate beneficiary being a bank at KBKK, LLC, which is
12 based in the Eastern District of Texas --

13 MR. WHALEN: Objection to the narrative.

14 THE COURT: Just ask another question.

15 BY MS. RATTAN:

16 Q. And where is that branch of the bank based, the KBKK
17 bank, which is BB&T?

18 A. The banking records would show -- the signature card
19 would show when it was first established. It was
20 established in the Eastern District of Texas and remained
21 in the Eastern District of Texas throughout the course of
22 the investigation.

23 Q. In fact, based on your investigation would you say that
24 everything associated with this defendant, Keith Ashley --
25 his home, his business, his bank, his bank accounts -- is

1 located where?

2 A. In the Eastern District of Texas.

3 Q. Okay. Now, let's talk a little bit more -- let's look
4 at page 2 -- about Count 1.

5 And what is this?

6 A. It's the wire transfer manifest for the \$150,000 wire.

7 Q. And this is the one that you just analyzed in terms of
8 the interstate nexus and the venue?

9 A. Correct, for Count 1.

10 Q. And like you said, it went to KBKK; and there is the
11 address right there, Lucas, Texas, in the Eastern District
12 of Texas?

13 A. Correct.

14 MS. RATTAN: And then if we can look at page 3 of
15 Government's 134.

16 BY MS. RATTAN:

17 Q. This we just saw again with Matt Wylie; is that right?

18 A. Correct.

19 Q. And this is the "what happened to the \$150,000 wire"
20 slide?

21 A. Correct.

22 Q. And as you've noted here, it's Government's
23 Exhibit 56A?

24 A. Correct.

25 Q. Okay. And that's Count 1 of the Indictment. That's

1 the interstate nexus and the venue.

2 Let's focus on Count 2. What happens in Count 2
3 of the Indictment?

4 MR. WHALEN: Your Honor, at this time we'd object
5 that it's an improper summary witness and it's cumulative
6 testimony.

7 THE COURT: Ms. Rattan?

8 MS. RATTAN: I think it's appropriate in a -- as
9 Mr. Whalen pointed out in his opening statement -- in a
10 complicated case to review the venue and interstate issues
11 with the jury. It's been a lengthy trial with a lot of
12 documents, and I think it's appropriate to review this
13 evidence with them.

14 THE COURT: Overruled.

15 MR. WHALEN: And, your Honor, may we have a
16 running objection to his entire testimony, your Honor?

17 THE COURT: No.

18 MR. WHALEN: Just object each time?

19 THE COURT: If you so desire.

20 MR. WHALEN: Okay.

21 BY MS. RATTAN:

22 Q. Agent Rennie, will you go over the interstate nexus and
23 the venue for Count 2 of the Indictment?

24 MR. WHALEN: Your Honor, once again we would
25 object that it is an improper summary witness and

1 cumulative of the testimony.

2 THE COURT: Overruled.

3 A. As stated previously, all BB&T wires must pass through
4 North Carolina; thus, it establishes the interstate nexus
5 of the wire transfer.

6 This wire transfer, on May the 25th of 2019 for
7 \$2,500, which is Count 2, passed from the Eastern District
8 of Texas through North Carolina and returned to the Eastern
9 District of Texas, as they were both -- it was a "Keith
10 Ashley to Keith Ashley" transfer.

11 BY MS. RATTAN:

12 Q. And, again, you've noted down here that the victim was
13 Denny Willmon. What do you mean by that?

14 A. The money that was being transferred by Mr. Ashley from
15 account to account was money that he received from the
16 victim, Denny Willmon.

17 MS. RATTAN: And then if we can look at the next
18 page, which is page 5.

19 BY MS. RATTAN:

20 Q. Is this the wire that you were talking about?

21 MR. WHALEN: Your Honor, once again we would
22 object. This is cumulative testimony.

23 THE COURT: Overruled.

24 A. It is. It's a \$2,500 wire transfer. And as you see
25 there in the originator, the originator, as I stated, was

1 Keith Ashley and his address on Boerne Court, which is
2 located in the Eastern District of Texas.

3 BY MS. RATTAN:

4 Q. So it was Mr. Willmon's money, but it's going from
5 Keith Ashley to Keith Ashley?

6 A. Correct.

7 Q. And was that common in the scheme that he was
8 operating?

9 A. He often transferred victim money between his personal
10 accounts and his business accounts.

11 Q. Let me direct your attention to Count 3, which is
12 page 6 of Government's 134.

13 Will you explain the interstate nexus and venue
14 here?

15 MR. WHALEN: Your Honor, we would object to this
16 exhibit as he's an improper summary witness and cumulative
17 of the testimony.

18 THE COURT: Overruled.

19 A. Sure.

20 Count 3, \$75,000 wire transfer February of 6th of
21 2020 from North Dallas Bank & Trust which is owned by
22 Mr. Robert Greening to KBKK, LLC, at BB&T ending in 8725.

23 As stated before, it is a BB&T wire so it had to
24 go through Lumberton, North Carolina; therefore, it went
25 from Mr. Greening's account through Lumberton, North

1 Carolina, and ultimately was received in the Eastern
2 District of Texas at BB&T.

3 BY MS. RATTAN:

4 Q. And as you've said, that was Mr. Greening's money. It
5 came directly from him. It was \$75,000.

6 MS. RATTAN: And then if we can look at the next
7 page, we'll see the wire.

8 A. Correct.

9 BY MS. RATTAN:

10 Q. And that was Government's Exhibit 49.

11 A. Correct.

12 Q. And this is the \$75,000. It went from Mr. Greening to
13 the defendant, his business, KBKK?

14 A. It did.

15 Q. And then the next page focuses -- it's Government's
16 Exhibit 134, page 8. And now --

17 MR. WHALEN: Your Honor, once again we object to
18 this as a summary witness, improper summary witness and
19 cumulative of the testimony.

20 THE COURT: Overruled.

21 BY MS. RATTAN:

22 Q. And now we're focusing on Count 4 of the Indictment.
23 What's happening here?

24 A. Sure. On February the 7th of 2020 a \$16,496.15 wire
25 transfer was sent between -- again between Mr. Ashley's

1 accounts, one originating at Chase Bank and benefitting
2 KBKK, LLC, BB&T ending in 8725.

3 As stated previously, all wires for BB&T had to
4 pass through Lumberton, North Carolina; so this one went
5 from the Eastern District of Texas through Lumberton and
6 then returned to the Eastern District of Texas.

7 Q. Okay. And then, again, this was Mr. Greening's money.
8 So he gave \$75,000; and then the defendant, Keith Ashley,
9 moved Mr. Greening's money around; is that right?

10 A. Correct.

11 Q. Was any of Mr. Greening's money invested in a UIT?

12 A. It was not.

13 Q. Was any of his money invested with Parkland Securities?

14 A. It was not.

15 Q. Now let's focus on Count 4. The next page is page 9.

16 MR. WHALEN: Which again, your Honor, we would
17 object. This is cumulative.

18 THE COURT: Overruled.

19 BY MS. RATTAN:

20 Q. And this was Government's Exhibit 52B. And is this the
21 \$16,496 that is Count 4?

22 A. It is.

23 And you see the originator there, KBKK, LLC, with
24 an address in the Eastern District of Texas.

25 Q. And then let me direct your attention to page 10. This

1 is Count 5.

2 MR. WHALEN: Once again, your Honor, we would
3 object as an improper summary witness and cumulative of the
4 testimony.

5 THE COURT: Overruled.

6 BY MS. RATTAN:

7 Q. Can you give us an overview of what's happening in
8 Count 5?

9 A. Sure.

10 Count 5, \$12,000 wire transfer on February 10th of
11 '20 from Keith Ashley's Chase Bank account to Keith
12 Ashley's KBKK, LLC, BB&T account ending in 8725. This is
13 again movement of Mr. Greening's money between Keith
14 Ashley's accounts.

15 And, as previously stated, all wires for BB&T
16 passed through Lumberton, North Carolina. So this wire
17 transfer went from the Eastern District of Texas through
18 Lumberton, North Carolina, and ultimately ended up
19 terminating in the Eastern District of Texas.

20 Q. And then Count 5, as you point out, is the \$12,000 from
21 Mr. Greening?

22 A. Correct.

23 Q. And so that would have been Government's Exhibit 52C.
24 Here is the \$12,000; and it's going into the defendant's
25 account there in the Eastern District of Texas?

1 A. Correct.

2 Q. And then let's focus on Count 6, which is page 12 of
3 Government's Exhibit 134.

4 MR. WHALEN: Your Honor, once again we would
5 object as an improper summary witness and cumulative of the
6 testimony.

7 THE COURT: Overruled.

8 BY MS. RATTAN:

9 Q. And what's going on here?

10 A. Count 6, a \$13,500 wire transfer on February 12th of
11 '20 from Keith Ashley's Chase Bank account to KBKK, LLC, at
12 BB&T ending in 8725. Again this is movement of
13 Mr. Greening's -- a portion of Mr. Greening's original
14 \$75,000 between accounts controlled by Mr. Ashley.

15 Again, as stated previously, all BB&T wires must
16 pass through Lumberton, North Carolina. So this wire
17 originated in the Eastern District, passed through the
18 state of North Carolina, and benefited KBKK, LLC, account
19 at BB&T which is located in the Eastern District of Texas.

20 Q. So the wire follows.

21 The next page, page 13 --

22 A. Correct.

23 Q. -- is this the wire that's Count 6 of the Indictment?

24 A. It is. Yes, it is.

25 Q. And, again, as you said, KBKK in the Eastern District

1 of Texas and there it is, \$13,500.

2 A. Correct.

3 Q. And that was Mr. Greening's money that was being moved
4 around?

5 A. Correct.

6 Q. Okay. Now, that's Counts 1 through 6; and those deal
7 with the investor money and how the defendant used the
8 investor money.

9 A. Correct.

10 Q. So let's shift focus and start looking at the
11 defendant's contact with the life insurance company,
12 Midland National Life.

13 So there's no Count 7 in the Indictment. There's
14 no Count 8 in the Indictment. The next count is Count 9;
15 is that correct?

16 A. That's correct.

17 Q. And at Count 9 in the Indictment, is there a focus on
18 how the defendant interacts with Midland life?

19 A. Correct.

20 Q. So the first interaction the defendant has with Midland
21 life that's captured in the Indictment is Count 9, and
22 that's --

23 MR. WHALEN: Your Honor, once again we would
24 object. This is an improper use of a summary witness and
25 cumulative testimony.

1 THE COURT: Okay. Overruled.

2 BY MS. RATTAN:

3 Q. And that's on January 24th of 2020; is that right?

4 A. Correct.

5 Q. And what happens here?

6 A. On January 24th of 2020 at 9:04 a.m., approximately
7 9:04 a.m., there is a telephone call from the defendant,
8 Keith Ashley, to Midland National Life Insurance.

9 The call is received by Midland National Life
10 Insurance by their agent, Paula Diaz.

11 Q. Okay. And that's Count 9?

12 A. Correct. And the -- based upon the cell site location
13 of Mr. Ashley during the time of the call, Mr. Ashley was
14 utilizing his cell phone and was located in the Eastern
15 District of Texas.

16 The call was received, as testimony has shown, by
17 the Midland National representative, Paula Diaz, in Sioux
18 Falls, South Dakota.

19 Q. And so that would be right here, "Ashley calls Midland
20 life about the documents"; is that right?

21 A. Correct.

22 Q. And that's January 24th of 2020. And the documents
23 that he's calling about are what?

24 A. Are the change of the beneficiary to the trust, to the
25 James Seegan revocable trust to which Mr. Ashley became the

1 executor.

2 Q. So that's Count 9, right there, this phone call.

3 A. Correct.

4 Q. So you've checked, you said, the cell site information
5 on the defendant, Keith Ashley's phone. And it shows that
6 he was where when he was making this call?

7 A. For a portion of the call, Mr. Ashley was located --
8 the telephone tower Mr. Ashley was bouncing off of while
9 utilizing the phone during the phone call was in the
10 Eastern District of Texas.

11 Q. Now let's focus on page 16, which covers Counts 10, 11,
12 and 12. What's going on here?

13 MR. WHALEN: Your Honor, we would object to the
14 testimony, improper use of a summary witness and it's
15 cumulative.

16 THE COURT: Overruled.

17 A. Sure. Again, on January 27th of 2020, there was a
18 telephone call and an email and a return email and also a
19 fax between the defendant, Keith Ashley, and Midland
20 National Life Insurance related to, again, the change of
21 the beneficiary on Mr. Seegan's life insurance policy.

22 Again Mr. Ashley was located in the Eastern
23 District of Texas during the telephone call, and again it
24 was received by a Midland agent located in Sioux Falls,
25 South Dakota. So the map depicts the interstate nexus and

1 the venue of these counts, 10 through 12.

2 BY MS. RATTAN:

3 Q. And, in fact, the next slides on Counts 10 through 12,
4 did you evaluate the location of Keith Ashley when these
5 events were taking place?

6 A. I did.

7 Q. And so that would be Government's Exhibit 134, page 17?

8 A. Correct.

9 Q. And explain to us what's happening here.

10 A. Again --

11 MR. WHALEN: Your Honor, once again we would
12 object to improper use of a summary witness and it's
13 cumulative.

14 THE COURT: Overruled.

15 A. Again, the bottom is a snippet of the actual AT&T
16 record depicting the latitude and longitude on the very
17 bottom right there.

18 BY MS. RATTAN:

19 Q. And that's the exhibit number for the AT&T records?

20 A. It is, 004B002.

21 And then if you put that into Google, it converts
22 it to minutes and seconds which gives you a coordinate
23 which places it on the map there which, as we know, is the
24 tower that's -- I think the testimony was -- across the
25 street or directly behind Nine Band Brewery at 9 Prestige

1 Circle, Allen, Texas, which is within the Eastern District
2 of Texas.

3 Q. Okay. And that's Counts 10 through 12.

4 A. Correct.

5 Q. All happening on January 27th?

6 A. Correct.

7 Q. And that's faxing, emailing, and calling about the
8 beneficiary change?

9 A. Correct.

10 Q. And again focused on the \$2 million life policy that he
11 will be the executor of if Mr. Seegan dies?

12 A. Correct.

13 Q. Now let's look at Count 13. Can you give us an
14 overview of Count 13 and your analysis of Count 13?

15 MR. WHALEN: Your Honor, we'd object. This is an
16 improper summary witness, and it's cumulative.

17 THE COURT: Overruled.

18 A. Sure. Count 13 relates to a February 20th of 2020 call
19 which occurred approximately 12:38 p.m. from the defendant,
20 Keith Ashley, to Midland National Life Insurance.

21 It was -- during the time of the call, the
22 defendant was located, based upon cell site location, in
23 the Eastern District of Texas; and it was received by
24 Midland National Life Insurance Agent Samantha Larsen, as
25 testimony has shown, that she was located in Sioux Falls,

1 South Dakota.

2 MS. RATTAN: And if we can look at the next page,
3 19.

4 BY MS. RATTAN:

5 Q. This is your cell site analysis on Count 13 when that
6 phone call was made on February 20th of 2020?

7 A. That's correct. The snippet is at the bottom from the
8 record, which is Exhibit 4B, page 3.

9 Again, the cell site location and the conversion
10 of the minutes and seconds puts it again in Allen, Texas,
11 which is within the Eastern District of Texas.

12 Q. So there's two calls that he makes the day after Jim
13 Seegan dies, and he makes both of those calls to Midland
14 life; is that right?

15 A. Correct.

16 Q. And one of them is "I want to let you know Mr. Seegan
17 passed away," and then the other call is "Make sure it's
18 locked down. We don't want any hanky panky"; is that
19 right?

20 MR. WHALEN: Objection as to the form of the
21 question, leading, and improper use of a summary witness
22 and cumulative.

23 THE COURT: Just rephrase the question. I'll
24 overrule his second objection.

25 MS. RATTAN: Yes, your Honor.

1 BY MS. RATTAN:

2 Q. How many calls were there by the defendant to Midland
3 life the day after Mr. Seegan died?

4 A. Two.

5 Q. And can you give us, like, an overview of those calls?

6 A. Sure. The first call was very --

7 MR. WHALEN: Once again I would object. It's
8 cumulative, improper use of a summary witness.

9 THE COURT: Overruled.

10 A. There were two calls. The one earlier in the morning,
11 a review of the cell site location would indicate that
12 Mr. Ashley's phone was bouncing off the cell tower at the
13 victim's house, Mr. Seegan. The telephone call was very
14 somber in tone.

15 The later telephone call, which is this call --

16 MR. WHALEN: Objection as to his characterization
17 of --

18 THE COURT: Sustained.

19 A. The second call, which is this call --

20 THE COURT: Well, wait for another question.

21 BY MS. RATTAN:

22 Q. What was the second call?

23 A. The second call, which was this call, February 20th,
24 which was in the Eastern District of Texas, is where
25 Mr. Seegan -- excuse me -- Mr. Ashley was requested or

1 confirmed that the account was going to be locked down as
2 he didn't want any hanky -- he made some statement that he
3 didn't want any funny business. Paraphrasing.

4 Q. And that's Count 13 in the Indictment?

5 A. Correct.

6 Q. And that's the day after Mr. Seegan dies; is that
7 right?

8 A. Correct.

9 Q. Now let's focus on the next count, Count 14 of the
10 Indictment. What's going on here?

11 MR. WHALEN: Your Honor, we would object once
12 again, improper use of a summary witness; and it's
13 cumulative.

14 THE COURT: Overruled.

15 A. Count 14 is a wire transfer on February 21st of 2020
16 from Texas Capital Bank owned by the deceased, James
17 Seegan, to KBKK, LLC, BB&T ending in 8725.

18 Again, as stated by the BB&T witnesses, all wire
19 transfers related to BB&T must pass through Lumberton,
20 North Carolina. So this wire transfer started in
21 Mr. Seegan's Texas Capital Bank account, passed through
22 Lumberton, North Carolina, and where it ultimately
23 benefited BB&T 8725 owned by the defendant, which is
24 located in the Eastern District of Texas.

25 MS. RATTAN: Okay. And if we can look at page 21.

1 BY MS. RATTAN:

2 Q. Is this, in fact, the wire that we've heard about?

3 A. It is.

4 Q. And this is the wire that was the \$20,000 that was
5 transferred after Mr. Seegan died?

6 A. Correct.

7 MS. RATTAN: May I approach the witness, your
8 Honor?

9 THE COURT: Yes.

10 BY MS. RATTAN:

11 Q. We're talking about February 21st of 2020. Let me show
12 you this and ask you if you can review that and tell me
13 whether it's accurate.

14 A. It is accurate.

15 Q. So February 21st of 2020, Ashley attempts to transfer
16 \$20,000 from James Seegan's bank account. Then Ashley
17 obtains James Seegan's cell phone, erases text messages,
18 obtains bank information and, finally, Ashley transfers
19 \$20,000 from Seegan's account to Ashley's account?

20 A. Correct.

21 MR. WHALEN: Objection as to leading, improper use
22 of a summary witness, and cumulative.

23 THE COURT: Well, just rephrase the question and
24 I'll overrule the rest of the objection. It was leading.

25 MS. RATTAN: May I return, your Honor?

1 THE COURT: Yes.

2 BY MS. RATTAN:

3 Q. So this is the \$20,000 wire transfer; and that's
4 Count 14?

5 A. That's correct.

6 Q. And Count 14 charges wire fraud; is that right?

7 A. It does.

8 Q. Now let me direct your attention to Count 15 of the
9 Indictment. Did you analyze Count 15 of the Indictment for
10 venue?

11 MR. WHALEN: Your Honor, once again we'd object as
12 it's improper use of a summary witness and it's cumulative.

13 THE COURT: Overruled.

14 A. Yes, I did.

15 BY MS. RATTAN:

16 Q. And what happened here?

17 A. On January 29th of 2020, Midland National Life
18 Insurance mailed a letter to both Mr. James Seegan and
19 Mr. Keith Ashley related to the confirmation of the change
20 of beneficiary of Mr. Seegan's life insurance policy.

21 Q. So the previous counts that we've been looking at were
22 wire fraud; is that right?

23 A. That's correct.

24 Q. And this count is mail fraud; is that right?

25 A. That's correct.

1 Q. And so this time a letter is mailed from Midland life;
2 is that correct?

3 A. It is.

4 MS. RATTAN: And if we can look at page 23 of
5 Government's Exhibit 134.

6 BY MS. RATTAN:

7 Q. What is this?

8 A. This is the letter from Midland life confirming the
9 change of beneficiary.

10 Q. Okay. So it's a done deal. Everything's in place, and
11 it's on paper January 29th of 2020.

12 MR. WHALEN: Objection as to the form of the
13 question, leading.

14 THE COURT: Overruled.

15 BY MS. RATTAN:

16 Q. And does it say who's going to receive this letter?

17 A. Correct.

18 And I believe the Midland witness testified that
19 these items were mailed.

20 MR. WHALEN: Objection as to hearsay, your Honor.

21 THE COURT: Sustained.

22 BY MS. RATTAN:

23 Q. And this is Count 15 of the Indictment?

24 A. It is.

25 Q. Now let's focus on the next page, which is page 24 --

1 25, rather, Count 16.

2 What is this?

3 MR. WHALEN: Your Honor, we object. It's improper
4 use of a summary witness, and it's cumulative.

5 THE COURT: Overruled.

6 A. Sure. Count 16. On May the 20th of 2020, SWIFS, the
7 forensic lab in Dallas, mailed a copy of Mr. Seegan's
8 autopsy to Paul Villarreal.

9 And SWIFS is located in Dallas County and
10 Mr. Villarreal during that time and the address on the
11 letter showed that he was located in the Eastern District
12 of Texas, thus establishing venue for mail fraud, Count 16.

13 BY MS. RATTAN:

14 Q. Again another mail fraud count?

15 A. Correct.

16 MS. RATTAN: And if we can look at the next page,
17 which is 26.

18 BY MS. RATTAN:

19 Q. You just referenced this. What is it?

20 A. Sure. This is actually a copy of the envelope that was
21 mailed by SWIFS to Mr. Paul Villarreal in Farmersville,
22 Texas, which is in the Eastern District of Texas.

23 And on the right side, this receipt was located
24 inside the envelope. The payer name is Paul Villarreal.
25 And as you see on the notes section, it indicates it's

1 for -- related to a case number which we know is connected
2 to Mr. Seegan's death; and it says, actually, Mr. Seegan's
3 name on the receipt as well.

4 Q. Okay. So Mr. Seegan's name is right here. It says the
5 person who is paying is Paul Villarreal and they are
6 ordering an autopsy from the Southwestern Institute of
7 Forensic Sciences?

8 A. Correct.

9 MR. WHALEN: Objection, form of the question,
10 leading, calls for speculation, improper use of a summary
11 witness.

12 THE COURT: Overruled.

13 BY MS. RATTAN:

14 Q. And it was addressed to Mr. Villarreal where?

15 A. His address was 959 Business 78, Farmersville, Texas,
16 75442.

17 Farmersville is east of McKinney, which is
18 completely within the Eastern District of Texas.

19 Q. And where was this receipt and the envelope found?

20 A. The receipt and the envelope were found -- I believe
21 these were -- I believe they were found in the --
22 Mr. Ashley's home. I can't recall.

23 These were found in one location. The autopsy was
24 found in another. So I can't recall at this time if it was
25 the home or the business. But fair to say it was located

1 in a -- in one of the locations that was searched during
2 the case and both were controlled by the defendant, Keith
3 Ashley.

4 Q. And that letter mailed by the medical examiner is
5 Count 16?

6 A. It is.

7 Q. And then this is also part of the Count 16. That was
8 the envelope and the receipt. And then page 27, what is
9 this?

10 A. This is the actual autopsy report that was located
11 during a search during the investigation.

12 Q. Okay. And then if we can focus right here, what does
13 that show?

14 A. This is the drug screen portion of the autopsy. And
15 on -- under the --

16 THE WITNESS: If you could zoom in a bit, it's a
17 little -- no?

18 A. Under the "Drug Screen (QTOF)," it lists "etomidate
19 detected," which is -- if you look at the lines 1, 2, 3 --
20 lines 4 and 5 from the bottom.

21 BY MS. RATTAN:

22 Q. Okay. So it says "Drug Screen (QTOF)" -- Q-T-O-F --

23 A. Correct.

24 Q. -- and then "etomidate detected" --

25 A. Correct.

1 Q. -- right there?

2 A. Right.

3 Q. Now, there's not a Count 17; is that right?

4 A. That's correct.

5 Q. There's no Count 7, no Count 8, and no Count 17?

6 A. Correct.

7 Q. So let's focus now on Count 18.

8 Did you evaluate the facts and circumstances of
9 Count 18 to determine the venue in this count?

10 MR. WHALEN: Your Honor, once again we would
11 object. It's an improper summary witness and cumulative.

12 THE COURT: Overruled.

13 A. Yes, I did.

14 BY MS. RATTAN:

15 Q. And, in fact, is this, Government's Exhibit 97, the
16 animation that you prepared based on the AT&T cell site
17 records tracking the defendant's cell phone and Special
18 Agent Rennie Mark Sedwick's presentation of the CAST
19 evaluation that he did?

20 A. Yes.

21 MS. RATTAN: And then if we can turn to
22 Government's Exhibit 97 and publish it.

23 (Video presentation to the jury.)

24 MS. RATTAN: Okay. If we can pause right there.

25 (Video presentation paused.)

1 BY MS. RATTAN:

2 Q. Can you tell us what we're seeing here?

3 A. Sure.

4 This is an overhead shot of Mr. Ashley's residence
5 in Lucas, Texas, in the Eastern District of Texas.

6 Q. And so it's this property right here?

7 A. Correct.

8 Q. So it starts early morning on February 19th of 2020,
9 the day Mr. Seegan is killed; is that right?

10 A. Correct.

11 Q. And then it's going to follow the defendant from his
12 house?

13 A. Yes. It will follow -- it will mirror Mr. Sedwick's --
14 Agent Sedwick's testimony, utilizing the same towers that
15 the phones were hitting off on his testimony. It's just an
16 animation of his testimony utilizing those same data.

17 MS. RATTAN: Okay. If we can go forward.

18 (Video presentation resumed.)

19 A. So as it zooms out, Mr. Ashley headed -- that morning
20 he headed west, his phone hitting off towers as he entered
21 into Allen, Texas, which is in the Eastern District of
22 Texas, ultimately arriving and hitting off the tower behind
23 Nine Band Brewery, which is his business in Allen, Texas.

24 BY MS. RATTAN:

25 Q. So he goes from his house -- this is 7:29 a.m. -- and

1 he goes to the brewery; is that right?

2 A. That's correct.

3 And you see the tower there --

4 MR. WHALEN: Your Honor, once again we would
5 object. It's improper use of a summary witness and
6 cumulative of the testimony.

7 THE COURT: Overruled.

8 A. And you see the tower there depicted, 8:43 a.m.,
9 located behind the brewery.

10 BY MS. RATTAN:

11 Q. Okay. So at this point he's traveled from his house to
12 the brewery.

13 And what happens next?

14 A. Sure. The next portion will be Mr. Ashley's travel
15 south.

16 (Video presentation resumed.)

17 A. As he travels south, the towers indicate and
18 Mr. Sedwick's testimony would indicate that he was
19 traveling south on 75 towards the George Bush Turnpike.

20 There at 8:49 you see a tower. 8:50 you see a
21 tower. He's just west of Plano, 8:51 -- that is downtown
22 Plano, west of downtown Plano, 8:52.

23 And then it hits the George Bush Turnpike
24 traveling west, the turnpike.

25 *

1 BY MS. RATTAN:

2 Q. Okay. And if we can pause right there.

3 (Video presentation paused.)

4 BY MS. RATTAN:

5 Q. So that's his consistent consecutive travel that
6 morning; is that right?

7 A. That's correct.

8 And you see arrival at Mr. Seegan's residence in
9 Carrollton, Texas.

10 Q. Now, can you show us --

11 (Video presentation resumed.)

12 MS. RATTAN: If we can pause and back out just a
13 little bit, if possible.

14 A. That's actually just perfect, I think, right there.

15 MS. RATTAN: Okay. Let's pause right there.

16 (Video presentation paused.)

17 BY MS. RATTAN:

18 Q. If you can show us where the Eastern District of Texas
19 is versus the Northern District of Texas, using this?

20 A. The sure.

21 I looked at the Collin -- so the Eastern District
22 of Texas encompasses both Collin County and Denton County.

23 So Denton County -- the Denton County line is
24 really Kelly Boulevard off George Bush. That's kind of
25 where the breaking point is.

1 So if you take this being Kelly Boulevard right
2 here, really this portion is the Eastern District of Texas;
3 and cutting across here essentially, generally, is the
4 Eastern District of Texas and this is the Northern District
5 of Texas.

6 So as he goes southwest on George Bush, when he
7 passes this line going this way, that's when he crosses
8 into the Northern District of Texas.

9 And actually yesterday -- yesterday I actually
10 drove the route --

11 MR. WHALEN: Objection as to the narrative, your
12 Honor.

13 THE COURT: Sustained.

14 BY MS. RATTAN:

15 Q. And as you drove and evaluated this route, what were
16 you able to determine?

17 A. Sure.

18 On this travel as I passed Kelly Boulevard, I
19 actually started to time how long it took me to get, once I
20 crossed into the Northern District, to Mr. Seegan's
21 residence where he was killed on February the 19th.

22 Q. Okay. And once you left the Eastern District of Texas
23 and got to Mr. Seegan's residence, how long did that take?

24 A. I actually took both times. I took the time going and
25 the time leaving his house to cross that same start/stop

1 point.

2 Driving there, it took me four and a half minutes
3 because I caught the light at Josey. Coming back, I was --
4 the lights were favorable to me; so it took me three and a
5 half minutes on the way back.

6 So, essentially, once Mr. Ashley crossed into the
7 Eastern District, without stopping other than for traffic
8 signals or stop signs, it would have taken him an average
9 of four minutes to get to the house, once entering the
10 Northern District of Texas.

11 Q. So his entire travel that morning, he leaves his house,
12 goes to the brewery and then travels to the Seegan home.
13 What was the length of the travel?

14 A. The length of the travel was 26 miles, and the last
15 4 minutes were in the Northern District of Texas.

16 Q. And in terms of estimating the amount of those miles
17 that was in the Northern District of Texas, how much would
18 you say that was?

19 A. It's approximately 2 and a half miles, which represents
20 about 10 percent of the total travel.

21 Q. So 90 percent of the travel that morning was in the
22 Eastern District of Texas?

23 A. Correct.

24 Q. And then the final 10 percent was in the Northern
25 District of Texas?

1 A. Correct.

2 Q. Now, was there any evidence that you saw, from the CAST
3 presentation by Agent Sedwick from the defendant's AT&T
4 cell phone cell site records, that indicated that the
5 defendant stopped anywhere after he left the Eastern
6 District of Texas, exited as you've marked on this
7 exhibit --

8 MR. WHALEN: Objection, calls for speculation,
9 your Honor.

10 THE COURT: Overruled.

11 If you can answer.

12 BY MS. RATTAN:

13 Q. -- that he stopped anywhere where he could obtain a
14 firearm in the Northern District of Texas?

15 A. No. He left his house. He stopped at the brewery in
16 the Eastern District of Texas. Then he traveled -- again,
17 as Mr. Sedwick testified, it's --

18 MR. WHALEN: Objection as to hearsay, your Honor.
19 Once again it's an improper summary witness and it's
20 cumulative.

21 THE COURT: As to hearsay, it's sustained.

22 BY MS. RATTAN:

23 Q. And what did the CAST evaluation show?

24 A. The evaluation shows that he did not have time to stop
25 anywhere. There was no significant stop after the stop at

1 Nine Band Brewing until he reached Mr. Seegan's residence.

2 Q. Okay. So, essentially, out of a 26-mile trip, the
3 final 2 to 3 miles was in the Northern District of Texas?

4 A. Yes.

5 Q. And there was no evidence that he would have stopped
6 anywhere to obtain anything, much less a firearm?

7 A. There was not.

8 MS. RATTAN: Now if we can go back to Government's
9 Exhibit 134, page 18 -- oh, rather, page 28. Pardon me.

10 BY MS. RATTAN:

11 Q. Okay. Again, what is this?

12 A. This is the map depicting Mr. Ashley's movement from
13 the Eastern District of Texas to Mr. Seegan's residence on
14 the morning of February 19th of 2020.

15 Q. And then the charge is carrying or possession of a
16 firearm in furtherance of a crime of violence; is that
17 right?

18 A. Correct.

19 Q. And that's Count 18?

20 A. Correct.

21 Q. Or, rather, Count 19 -- no, it's Count 18.

22 A. Count 18, correct.

23 Q. Okay. And that was February 19th of 2020; is that
24 right?

25 A. Correct.

1 MS. RATTAN: Now again focusing on Government's
2 Exhibit Number 134, let's look at page 31.

3 BY MS. RATTAN:

4 Q. And what is this?

5 MR. WHALEN: Your Honor, once again we would
6 object as to improper use of a summary witness; and it's
7 cumulative.

8 THE COURT: Overruled.

9 A. Count 19, bank theft, \$20,000 wire transfer as stated
10 previously on February 21st of 2020.

11 On that date Mr. Ashley takes 20,000 from
12 Mr. Seegan's Texas Capital Bank account which is then
13 transferred to his KBKK BB&T 8725 account which is located
14 in the Eastern District of Texas.

15 MS. RATTAN: And then page 32.

16 BY MS. RATTAN:

17 Q. That's the \$20,000; is that right?

18 A. It is.

19 Q. And this is a bank theft; is that right?

20 A. It is.

21 Q. And it's the same facts as the wire fraud which is
22 Count 14, is that right, these events on February 21st of
23 2020?

24 A. It is.

25 Q. So I'm going to add here -- it says "Count 14."

1 Count 14 charges a wire fraud. And I'm going to put "and
2 19" because that's the bank theft.

3 Is that right?

4 A. Correct.

5 Q. Now, the final count of the Indictment is Count 20.

6 Did you evaluate Count 20 using the same techniques that
7 you evaluated the other counts?

8 A. I did.

9 MR. WHALEN: Your Honor, we'd object. Once again
10 it's improper use of a summary witness, and it's
11 cumulative.

12 THE COURT: Overruled.

13 BY MS. RATTAN:

14 Q. And what did you determine?

15 A. On February 28th of 2020 -- excuse me -- February 27th
16 of 2018, approximately 11:22 a.m., there was a telephone
17 call from the defendant, Keith Ashley, to Midland National
18 Life Insurance. The agent was Cindy Nordquist, and the
19 call was related to a life insurance application that had
20 been submitted by the defendant on behalf of Mr. Paul
21 Villarreal.

22 Q. And that's Count 20, and that's in 2018?

23 A. That's correct.

24 Q. And this is the policy where the defendant said he
25 would be the beneficiary and that he was Mr. Villarreal's

1 stepbrother?

2 A. Correct.

3 Q. And, let's see, what is this? It's page 34 of
4 Government's Exhibit 134.

5 A. Sure. On the left side is an email from Mr. Ashley to
6 Midland National and then a response from Midland National.

7 The narrative in the email tracks the narrative in
8 the phone call about a mistaken -- essentially, how much he
9 was going to pay in his premiums. It was adjusted.

10 And then on the right side is the portion of the
11 application which shows the beneficiary, where Mr. Ashley
12 names himself as a beneficiary and states his relationship
13 to the proposed insured is his stepbrother.

14 Again, the address there, 1211 Boerne Court in, as
15 we know Lucas, Texas, is his home address -- was his home
16 address and is located in the Eastern District of Texas.

17 Q. And did you conduct an investigation as to whether
18 Keith Ashley was, in fact, Paul Villarreal's stepbrother?

19 A. He was not.

20 MR. WHALEN: Objection, nonresponsive to the
21 question asked.

22 THE COURT: Sustained.

23 BY MS. RATTAN:

24 Q. And did you conduct an investigation into whether the
25 defendant was Paul Villarreal's stepbrother?

1 A. I did.

2 Q. As part of your investigation, did you talk to
3 Mr. Villarreal?

4 A. I did.

5 Q. Of course, he's died. But before he died, you spoke to
6 him?

7 A. I did.

8 Q. And did you speak to his family?

9 A. I did.

10 Q. Based on your investigation, were you able to conclude
11 whether, in fact, Keith Ashley had an insurable interest
12 and was he the stepbrother of Paul Villarreal?

13 MR. WHALEN: Objection as to hearsay, your Honor.

14 THE COURT: Overruled.

15 A. He was not.

16 BY MS. RATTAN:

17 Q. Now let's shift gears away from interstate nexus and
18 venue and let's focus on the victim, Mr. Seegan, James
19 Seegan.

20 Did you evaluate Mr. Seegan and his business and
21 his participation in the economy?

22 A. I did.

23 Q. Were you able to determine --

24 MR. WHALEN: Your Honor, I'm going to object.
25 This calls for a legal conclusion. There is no notice

1 concerning this area of expertise, and we'd object to it.

2 THE COURT: Is this being offered as expert
3 testimony or as a fact witness?

4 MS. RATTAN: Well, he's a fact witness. He's also
5 been noticed as a financial expert. I'm not sure that
6 financial expertise is required in this case; but in an
7 abundance of caution, he was noticed as a financial expert
8 and he did evaluate and determine factually whether
9 Mr. Seegan had a business.

10 THE COURT: Okay. Overruled.

11 BY MS. RATTAN:

12 Q. So did you review the evidence and determine whether,
13 in fact, James Seegan was involved in interstate commerce?

14 A. I did.

15 MR. WHALEN: Your Honor, I'm going to object.
16 That calls for a legal conclusion.

17 THE COURT: Overruled.

18 BY MS. RATTAN:

19 Q. Did you determine whether Mr. Seegan had a company?

20 A. I did.

21 Q. And what was the name of his company?

22 A. JES2 Properties, LLC.

23 Q. JES2 Properties, LLC.

24 Does that appear to be his initials?

25 A. Yes, James E. Seegan 2, LLC -- Properties, LLC, yes.

1 Q. And then the term "LLC" -- what does "LLC" mean?

2 A. That's a limited liability company or corporation.

3 Q. So he had, in fact, filed papers with the State of
4 Texas indicating that he had a business; is that right?

5 A. He did. He did.

6 Q. Where was his business primarily located?

7 A. His residence, 2114 Cannes Drive, Carrollton, Texas.

8 Q. And I used the term "primarily located." Is that the
9 only place his business was located?

10 A. That's -- yeah -- yes. When he filed the paperwork
11 with the State of Texas, that is the location of the
12 business.

13 Q. And was the -- it fair to say that the focus of the
14 business was real estate?

15 A. It was.

16 Q. And will you give the jury an overview of what he was
17 involved in?

18 A. Sure.

19 He had property, real estate property that he
20 managed from that location. He -- that essentially was the
21 nature of his business.

22 Q. Did he also invest in Groundfloor?

23 A. He did.

24 Q. What is that?

25 A. Groundfloor was a -- is an investment where you provide

1 capital which is then lent to people that are buying and
2 selling and flipping real estate. Groundfloor, the
3 investment company, was located in Atlanta, Georgia; and
4 Mr. Seegan heavily invested in Groundfloor.

5 Q. And did he also participate in trading?

6 A. He did.

7 Q. And will you describe to the jury what you mean by
8 that?

9 A. Sure.

10 He had two -- at least two brokerage accounts
11 which he traded, bought and sold securities, bought and
12 sold assets via the Fidelity trading platform as well as an
13 E*TRADE trading platform.

14 Q. So he has an incorporated business, an LLC, where he is
15 managing property; he is investing in real estate; and he's
16 trading on two separate platforms.

17 A. Correct.

18 Q. Let me direct your attention to Government's
19 Exhibit 79.

20 MS. RATTAN: If we can look at page 9.

21 BY MS. RATTAN:

22 Q. What is this?

23 A. That's Mr. Seegan's office in Cannes Drive.

24 Q. And is this consistent with what you would expect to
25 see for somebody who's operating a business from their

1 home?

2 MR. WHALEN: Your Honor, objection, calls for
3 speculation.

4 THE COURT: Overruled.

5 A. Yes.

6 BY MS. RATTAN:

7 Q. And why do you say that?

8 A. I mean, it has everything you'd need to operate a small
9 business.

10 Computer, printers were located there.

11 His phone is there on the charger, lamps,
12 different, you know, connection devices, at least three
13 computers that I can see there.

14 There is a router there.

15 There is an Internet connection, paperwork --
16 miscellaneous paperwork, calendars, things you would see in
17 a typical office.

18 MS. RATTAN: And then if we can look at page 13.

19 BY MS. RATTAN:

20 Q. This is the same room from a different angle; is that
21 right?

22 A. Sure. Yes.

23 Q. And then what's going on here?

24 A. Sure. You can see there is a charging stand.

25 There's lights, water bottle.

1 Looks like there is an iPad; like I said multiple
2 computers.

3 There's two printers that are down on the lower
4 right; lights, paperwork, passwords up on the -- on the
5 wall there.

6 His diplomas, I believe, were shown in the other
7 screen, so typical business -- something you would find in
8 a business or small home office business.

9 Q. And then speaking of small home office business, you
10 said that you determined that he did have a business,
11 JES2, LLC; is that right?

12 A. Sure. JES2 Properties, LLC, correct.

13 Q. And then have you reviewed documents that relate to
14 that business and when it was created?

15 A. I have.

16 Q. Let me direct your attention --

17 MS. RATTAN: Your Honor, it's part of what's
18 previously been admitted as Government's Exhibit 88; and
19 we've marked these specific documents as Government's
20 Exhibit 88A. So we'll offer 88A.

21 It's a portion of what's already been admitted as
22 Government's 88.

23 THE COURT: Mr. Whalen?

24 MR. WHALEN: I'm looking, your Honor.

25 MS. RATTAN: We just pulled them out for clarity.

1 MR. WHALEN: I don't know what it is, so I
2 can't --

3 (Off-the-record discussion among counsel.)

4 MR. WHALEN: No objection.

5 THE COURT: It will be admitted.

6 MS. RATTAN: Let's see, may we publish
7 Government's Exhibit 88A, page 1?

8 THE COURT: Yes, you may.

9 BY MS. RATTAN:

10 Q. Will you explain what this is?

11 A. Yes. This is a Certificate of Filing for JES2
12 Properties, LLC, from the State of Texas. It's dated
13 March 18th of 2019, and it was effective March 18th of
14 2019.

15 Q. And there is the name right there, JES2 Properties,
16 LLC, and this is the Certificate of Filing with the
17 Secretary of State; is that right?

18 A. Correct.

19 Q. And this "hereby certifies that a Certificate of
20 Formation for the above named Domestic Limited Liability
21 Company (LLC) has been received in this office and has been
22 found to conform to the applicable provisions of law."

23 So his business was created; is that right?

24 A. Correct.

25 MS. RATTAN: If we can look at 8A, page 3.

1 BY MS. RATTAN:

2 Q. What is this?

3 A. This is the Certificate of Formation for the LLC which
4 is dated March 18th of 2019, for JES2 Properties, LLC. It
5 has the registered agent there.

6 And then at the bottom, it has the managing
7 member, who is Jim -- James E. Seegan was also referred to
8 as Jim Seegan -- managing member, 2114 Cannes Drive,
9 Carrollton, Texas, 75006, which the pictures that we saw
10 previously are pictures of the office located on the second
11 floor of that residence.

12 MS. RATTAN: And then if we can look at page 4 of
13 Government's Exhibit 88A.

14 BY MS. RATTAN:

15 Q. This is just a continuation of the document?

16 A. Correct.

17 It shows the organizer, Jim Seegan, and then has
18 the signature of the organizer in the Execution.

19 Q. And let me direct your attention to 88A, page 6.

20 What is this?

21 A. These are minutes of the -- essentially after it was
22 established with the Secretary of State, the requirement
23 many times for LLCs is to have a meeting of the -- for the
24 organization. This was the meeting minutes which occurred
25 the day after the organization, on March the 19th of 2019.

1 Mr. Seegan was the only member. He holds the
2 positions of president and secretary of JES2 Properties,
3 LLC, which again is located at 2114 Cannes Drive,
4 Carrollton, Texas.

5 Q. And that's right here.

6 And then, as you said, the officers, that was
7 Mr. Seegan?

8 A. Correct.

9 MS. RATTAN: And if we can look at the next page,
10 7, 88A page 7.

11 BY MS. RATTAN:

12 Q. What is this?

13 A. These are the members and the interest owned by the
14 members. Mr. Seegan was the only member, and he owned
15 100 percent of the interest.

16 Q. And, in fact, legally, on page 8, it says where the
17 principal office is.

18 A. Correct. Principal office be established and
19 maintained at -- excuse me -- (as read): "RESOLVED, that a
20 Company office be established and maintained at 2114 Cannes
21 Drive, Carrollton, Texas, and that meetings of the Members
22 from time to time may be held either at the principal
23 office or at other such place as the Members shall from
24 time to time order."

25 Q. And did the documents anticipate that the business will

1 interact with other states?

2 A. It did.

3 Q. And how so?

4 A. It says that the company can (as read) "do business in
5 any state, territory or dependency of the United States or
6 any foreign country in which it is necessary or expedient
7 for the Company to transact business, the Members" -- which
8 is James Seegan -- "are hereby authorized to appoint and
9 substitute all necessary agents and attorneys for service
10 of process, to designate and change the" -- it continues
11 on.

12 Q. And then as part of your review of the documents, did
13 you determine whether this company, James Seegan's company,
14 JEC2 (*sic*) Properties, actually participated in the
15 economy, in business?

16 A. I did.

17 Q. Did it?

18 A. It did.

19 Q. And did it participate in interstate business?

20 MR. WHALEN: Your Honor --

21 A. It did.

22 MR. WHALEN: -- I'm going to object. It calls for
23 a legal conclusion.

24 THE COURT: Overruled.

25 A. It did.

1 BY MS. RATTAN:

2 Q. Let me direct your attention to Government's
3 Exhibit 88A, page 19.

4 Would you explain what this is?

5 A. Sure.

6 This is a list of expenses related to JES2, LLC --
7 Properties, LLC, for January through December of 2019.
8 Actually, I think the first expense was March 18th or
9 March 19th of 2019, as that's when the company was
10 established.

11 Q. And so did you evaluate the companies where he was
12 spending money to determine whether those companies were
13 based out of state?

14 A. I did.

15 Q. And what did you determine?

16 A. So the companies the expenses were incurred from,
17 Albertsons, Amazon -- on this page Albertsons and Amazon, I
18 believe Albertsons is located -- headquartered in
19 Minnesota. Amazon is based primarily in Seattle,
20 Washington.

21 MS. RATTAN: And then if we can look at the next
22 page, 88A, page 20.

23 BY MS. RATTAN:

24 Q. What did you evaluate here?

25 A. Farmers Insurance is located not -- is not

1 headquartered in the state of Texas. I believe it's in
2 California.

3 Home Depot is headquartered in Atlanta, Georgia.

4 Q. And these are businesses where James Seegan's LLC,
5 JES2, LLC, is doing business?

6 A. Sure. The.

7 JES2 Properties, LLC, is incurring expenses based
8 upon the business from these out-of-state companies.

9 MS. RATTAN: And if we can look at page 21 as we
10 continue to look at the finances of JES2.

11 BY MS. RATTAN:

12 Q. What do we see?

13 A. Intuit, another company -- it looks like he utilized
14 QuickBooks to manage the expenses of the business -- is
15 located in Silicon Valley, California.

16 Q. And as we page down to page 22?

17 A. Yes, Lowe's is another company. Lowe's is located in
18 North Carolina.

19 And Nest, which is owned by Google, Nest is
20 located in Silicon Valley, California, as well.

21 MS. RATTAN: And then if we can page down through
22 23 and look at 88A, page 24.

23 BY MS. RATTAN:

24 Q. And what does this show?

25 A. This shows the total expenses incurred by JES2

1 Properties, LLC, from approximately the middle of March
2 of 2019 through December of 2019 was approximately \$22,000.

3 Q. And based on your review of the records, was James
4 Seegan, as JES2, LLC, pretty careful about keeping the
5 records of his business?

6 A. He was.

7 Q. And after James Seegan died on February 19th of 2020,
8 what would the effect on interstate commerce have been?
9 What happened? Did you look at the --

10 MR. WHALEN: Your Honor, I'm going to object.
11 That's a legal conclusion.

12 THE COURT: Ms. Rattan?

13 MS. RATTAN: I think the witness can testify the
14 difference before and after the date that Mr. Seegan died.

15 THE COURT: Overruled.

16 BY MS. RATTAN:

17 Q. And what were you able to determine?

18 A. Mr. Seegan -- the expenses incurred by Mr. Seegan -- or
19 the expenses incurred by JES2 Properties, LLC, the spending
20 by JES2 Properties, LLC, as well as the trading activity
21 post Mr. Seegan's death from the location of JES2
22 Properties, LLC, was significantly decreased or eliminated
23 altogether.

24 Q. And did you evaluate the evidence to determine whether
25 the defendant, Keith Ashley, knew about JES2 Properties

1 that Mr. Seegan was participating in or had formed?

2 A. I did.

3 Q. Did he?

4 A. He did.

5 Q. In fact, were there search histories related to the
6 defendant, Keith Ashley, looking for JES2 Properties?

7 A. There was.

8 Q. Let me direct your attention to Government's
9 Exhibit 127A, which has previously been admitted as the
10 defendant's Google search history.

11 MS. RATTAN: And if we can look at page 227.

12 BY MS. RATTAN:

13 Q. In fact, does this show that the defendant was doing
14 Google searches of Mr. Seegan under the JES2, LLC?

15 A. He was.

16 Q. And was he doing this repeatedly? Is this a
17 representative example?

18 A. He was.

19 MS. RATTAN: And if we can look at page 2-3-0,
20 230, 127A, page 230.

21 BY MS. RATTAN:

22 Q. Here's another example. We've got "JES2 LLC," "je2
23 investments llc." And this is the defendant's -- or in the
24 defendant's search history; is that right?

25 A. Sure.

1 And actually two more down, "jes2 property llc" as
2 well.

3 Q. Right there.

4 A. Yes. Yeah, it's repeated searches to the derivations
5 of "JES2 Properties," "JES2 investments," "JES2, LLC," by
6 the defendant, Keith Ashley.

7 MS. RATTAN: And then page 233.

8 BY MS. RATTAN:

9 Q. Here he's doing "James Seegan" and looking at Parkland
10 Securities as well.

11 Is it fair to say that as you reviewed the
12 defendant's search history, that he was repeatedly
13 searching for "JES2 Properties"?

14 A. He was.

15 Q. And "James Seegan"?

16 A. Correct.

17 MS. RATTAN: If we can look at Government's
18 Exhibit 125B, page 19.

19 BY MS. RATTAN:

20 Q. This is just another example; is that right?

21 A. Sure. "JES2 LLC James Seegan," "jes2 llc james
22 seegan."

23 Q. So we focused on the creation of the business, what the
24 business did.

25 You said that as a business, that James Seegan was

1 also involved in trading, E*TRADE and Fidelity, that he was
2 on these two platforms; is that right?

3 A. He was.

4 Q. Can you explain what your review showed about those?

5 A. Sure.

6 Mr. Seegan -- trading activity would show that he
7 bought and sold securities via the Fidelity platform and
8 via the E*TRADE personal trading platform.

9 Q. And did you review his E*TRADE records to see if he was
10 actively engaged in business through his E*TRADE records?

11 A. He was.

12 Q. Okay. And let me direct your attention to Government's
13 Exhibit 17.

14 MS. RATTAN: If we can look at page 1081.

15 BY MS. RATTAN:

16 Q. What's going on here?

17 Was he trading in June of 2019 with E*TRADE?

18 A. I would have to see the activity. I believe June
19 of 2019 was one of the dates of trading, but it would show
20 it on a different -- on a different page.

21 Q. Okay.

22 MS. RATTAN: I had 1081 marked. Maybe 1082 for
23 June?

24 BY MS. RATTAN:

25 Q. Anyway, you showed that in June of 2019 or, rather --

1 yes, 2019, that he was involved in trading?

2 A. Yes. I'd have to look at my notes, but there was
3 E*TRADE he had between -- I think I looked at May to May.

4 May to May he had five, six, seven months where he
5 had trading activity; and I believe in Fidelity he had two
6 or three months of trading activity.

7 So essentially during that 12-month time frame, I
8 believe there was two or three months that -- when he was
9 alive, I think there were only two months when he didn't
10 trade; and then after he -- after his death, there was
11 minimal or zero trading activity for the months that
12 followed.

13 Q. So he was engaged in business with Fidelity and engaged
14 in business with E*TRADE --

15 MR. WHALEN: Your Honor, I'm going to object to
16 the form of the question.

17 THE COURT: Just rephrase the question.

18 BY MS. RATTAN:

19 Q. He was engaged in two different what when he was alive?

20 A. He was trading -- actively trading securities on two
21 different trading/brokerage platforms.

22 Q. And then after he died, what happened?

23 A. There was -- the month that -- the month after he --
24 the time after he died, there was zero trading activity. I
25 believe the month that followed, there was zero trading

1 activity and --

2 Actually, the month that followed, I believe there
3 was, you know, very, very little trading activity compared
4 to what there were before he died; and then in the months
5 after that, there was zero.

6 Q. And the trading that he was doing, are these national
7 trades and not just with companies based in Texas?

8 A. No, he was buying and selling securities that were
9 essentially either investment portfolios or companies that
10 were located -- headquartered elsewhere, outside of the
11 state of Texas.

12 Q. Now let me talk to you about James Seegan's -- not just
13 his finances and his company that he was operating but
14 about his net worth in February of 2020 when he died.

15 A. Yes.

16 Q. Are you familiar with that?

17 A. I am.

18 Q. Let me direct your attention to Government's
19 Exhibit 29A, page 190.

20 This is a Midland National Life Insurance form
21 where Mr. Seegan declared what his net worth was; is that
22 correct?

23 A. That's correct.

24 Q. And what did he declare as being his net worth?

25 A. \$3 million.

1 Q. So he's got his net worth right there; is that right?

2 A. Correct.

3 Q. Is that consistent with what his net worth would have
4 been, approximately, when he died in February of 2020?

5 A. Correct.

6 Q. Now, that's his net worth alive; but we know that he
7 had two life insurance policies. So the value of the Keith
8 Ashley estate when he died, is it fair to say that it
9 increased?

10 A. The James Seegan estate, yes.

11 Q. James Seegan estate.

12 One of the policies was valued at \$400,000 and we
13 saw the check that was paid; is that right?

14 A. Correct.

15 Q. And the other policy was valued at what?

16 A. \$2 million.

17 Q. So when you add the net worth of 3 million plus the
18 400,000 plus the 2 million, you get 5.4 million; is that
19 right?

20 A. That's correct.

21 Q. But if you subtract the 2 million, you get what?

22 A. Approximately \$3 1/2 million.

23 Q. So without the 2 million, you have about 3 -- it's
24 point 4 million.

25 A. 3.4.

1 Q. Okay.

2 A. 3.4 million.

3 Q. 3.4 million if you don't account for the \$2 million
4 life policy?

5 A. Correct.

6 Q. Now, as part of your investigation, did you look at
7 whether the defendant had any training in etomidate?

8 A. I did.

9 Q. And did you determine --

10 MR. WHALEN: Your Honor, I'm going to object.
11 This is outside his expertise. It's improper use of a
12 summary witness and cumulative of the testimony.

13 THE COURT: Sustained.

14 MS. RATTAN: Your Honor, may I be heard?

15 THE COURT: Yes.

16 MS. RATTAN: I believe as the lead agent in the
17 case, he can evidence that he looked at specific evidence
18 and identify it for the jury.

19 THE COURT: Well, as long as he's not going to
20 give what I would say are expert opinions about etomidate.

21 MS. RATTAN: Oh, he won't, your Honor.

22 THE COURT: Okay. That's where I thought you were
23 going.

24 MR. WHALEN: We also renew it's improper use of a
25 summary witness.

1 THE COURT: Overruled.

2 BY MS. RATTAN:

3 Q. So did you look at whether the defendant had training
4 in etomidate?

5 A. I did.

6 Q. And did he?

7 A. He did.

8 Q. And, in fact, did that training date back to 2004?

9 A. It did.

10 Q. Let me show you Government's Exhibit 109, page 7.

11 Was this a training manual that was found at the
12 defendant's residence when it was searched?

13 A. It was.

14 Q. And then let me direct your attention to Government's
15 Exhibit 113, page 1.

16 Is this, in fact, part of the training that the
17 defendant received?

18 A. It is.

19 MS. RATTAN: And if we can look at page 25 of
20 Government's Exhibit 113.

21 BY MS. RATTAN:

22 Q. This dates back to 2004; is that right?

23 A. Correct.

24 Q. And then this training in 2004, he received specific
25 questioning and training on etomidate?

1 A. He did.

2 MS. RATTAN: If we can look at Government's
3 Exhibit 22, page 7 -- wait -- Government's Exhibit 113,
4 page 22, Number 7.

5 BY MS. RATTAN:

6 Q. It talks specifically about etomidate; is that right?

7 A. Correct.

8 Q. And then page 21, Number 16 references etomidate; is
9 that right?

10 A. It does.

11 Q. And then page 19, Number 7, another reference to
12 etomidate; is that right?

13 A. Correct.

14 Q. Page 11, Number 57, multiple references to etomidate
15 throughout; is that right?

16 A. Correct.

17 MS. RATTAN: May I approach the witness, your
18 Honor?

19 THE COURT: Yes, you may.

20 BY MS. RATTAN:

21 Q. So is it fair to say that as early as 2004, that the
22 defendant, Ashley, received training on etomidate?

23 A. Correct.

24 MS. RATTAN: May I return, your Honor?

25 THE COURT: Yes.

1 MS. RATTAN: And then may I approach the witness
2 again?

3 THE COURT: Yes, you may.

4 BY MS. RATTAN:

5 Q. And then on September 3rd, that manual that we just
6 reviewed was found at the defendant's residence where he
7 had information about the etomidate?

8 A. Correct.

9 Q. And then he also had the medical examiner's report
10 showing etomidate on that date; is that right?

11 A. Correct.

12 MS. RATTAN: May I return, your Honor?

13 THE COURT: Yes, you may.

14 BY MS. RATTAN:

15 Q. Now let's focus for a minute, if we can, on the
16 timeline. After --

17 MS. RATTAN: May I approach the board, your Honor?

18 THE COURT: Yes.

19 BY MS. RATTAN:

20 Q. After Mr. Seegan dies, the defendant, Keith Ashley, is
21 sending texts to the defendant and those texts are unread;
22 is that right?

23 A. Correct.

24 Q. And the texts that he's sending him, "Nice to chat with
25 you" -- let's review what those texts were.

1 MR. WHALEN: Your Honor, once again we're going to
2 object as an improper use of a summary witness and it's
3 cumulative.

4 THE COURT: Overruled.

5 MR. WHALEN: Based on hearsay.

6 THE COURT: Well --

7 MS. RATTAN: If we can look --

8 THE COURT: What's your hearsay objection?

9 MR. WHALEN: Well, he's basing it on what other
10 witnesses testified to.

11 THE COURT: Overruled.

12 MS. RATTAN: If we can look at Government's
13 Exhibit 79, page 43.

14 BY MS. RATTAN:

15 Q. Is this a picture of Mr. Seegan's phone?

16 A. It is.

17 Q. And that was taken by law enforcement on the day that
18 Mr. Seegan died; is that right?

19 A. It was.

20 Q. And is that what's included here on the chart, at
21 10:24 a.m. Ashley texts Jim Seegan's phone and it's unread?

22 A. It is.

23 Q. What's he saying in the text?

24 A. He's essentially sent the text, it looks like, to
25 console Mr. Seegan --

1 MR. WHALEN: Your Honor, I'm going to object.

2 That calls for speculation.

3 THE COURT: Sustained.

4 BY MS. RATTAN:

5 Q. Does he say (as read): "Nice to chat with you this
6 morning. Stay positive. I think you need to discuss this
7 with Dida. She really needs to know how you feel and how
8 much of a struggle you're going through on a daily basis.
9 I really think you should talk to somebody. I think we
10 both need to sit down and talk to Dida so that she
11 understands that depression is not that big of a deal and
12 you can get through it"?

13 MR. WHALEN: Objection as to leading.

14 THE COURT: Well, I don't know that you asked a
15 question yet.

16 BY MS. RATTAN:

17 Q. Is that what he says?

18 A. It is.

19 THE COURT: Overruled.

20 MS. RATTAN: And may I proceed, your Honor?

21 THE COURT: Yes.

22 BY MS. RATTAN:

23 Q. What else does he say?

24 A. (As read): "Just remember Dida, Josh, myself, and many
25 others love you. I will call you later. See, you have

1 people that care."

2 MS. RATTAN: And then if we can look at
3 Government's Exhibit 79, page 44.

4 BY MS. RATTAN:

5 Q. What's going on here?

6 A. It's a continuation but it's much later in the day,
7 4:37 p.m. (As read): "You need me to come over tonight or
8 in the morning? I have called you two times, Buddy. Stay
9 positive."

10 Q. And again none of these are answered; is that right?

11 A. Correct.

12 Q. And then, of course, there are other calls that are
13 captured where Dida's calling and the school is calling,
14 and those also go unread; is that right?

15 MR. WHALEN: Objection as to the leading.

16 THE COURT: Sustained.

17 BY MS. RATTAN:

18 Q. Now, let's move away from the text messages that the
19 defendant was sending throughout the day; and let's go and
20 talk about something that was found in the search of the
21 defendant's truck.

22 Was there a letter found that was labeled "open
23 upon my death"?

24 A. There was.

25 Q. Let me direct your attention to Government's

1 Exhibit 124A.

2 MS. RATTAN: If we can publish that, page 1.

3 BY MS. RATTAN:

4 Q. What is this?

5 A. That's the envelope.

6 Q. "Open upon my death," and then it's got a passcode; is
7 that right?

8 A. Correct.

9 MS. RATTAN: And then if we can look at page 2.

10 BY MS. RATTAN:

11 Q. What is this?

12 A. This is the letter that was contained in the envelope
13 that was found inside the truck.

14 Q. And just kind of give us an overview of what's going on
15 here.

16 A. It's just instructions on financial matters related
17 to -- I'll read the first sentence. (As read): "As you
18 know, my goal is to take care of you guys. I love you with
19 all my heart and soul. If you are reading this, I have
20 passed away."

21 And then there's instructions related to Midland
22 National, related to Lincoln Life, Bank of America, some
23 mortgage stuff.

24 At the bottom there is more narrative related to
25 what I know to be Keith Ashley's mother-in-law.

1 Q. Now, at the very bottom here, you just mentioned about
2 Keith Ashley's mother-in-law.

3 MS. RATTAN: If we can just focus on that portion
4 of the "open upon my death" note.

5 BY MS. RATTAN:

6 Q. What does this say?

7 A. It says, (as read): "Brandi, years ago I put your
8 mom's 115,000 into one of my Midland" -- well, it says
9 "MNL," which I know to be Midland National Life --
10 "policies to protect it from IRS deals years ago. So tell
11 your mom after you receive all the death benefits I have
12 instructed you to give her 130,000. That is what her cash
13 value should have been. Trust me, do not try and explain,
14 just tell her the account automatically closes when I die.
15 Tell her upon my death her accounts close out and she will
16 receive money. You will have to give her from death
17 proceeds."

18 Q. So does it sound like the defendant had taken his
19 mother-in-law's money as well?

20 MR. WHALEN: Objection, calls for speculation.

21 THE COURT: Sustained.

22 BY MS. RATTAN:

23 Q. Based on your review of this, did you reach a
24 conclusion or have an opinion as to what was going on here?

25 A. Yes.

1 Q. And what was that?

2 MR. WHALEN: Objection, calls for speculation,
3 404(b) .

4 THE COURT: Sustained.

5 BY MS. RATTAN:

6 Q. Now let me direct your attention to the defendant's
7 Internet search history. We talked a little bit about it
8 earlier when we were talking about whether the defendant
9 googled or used an Internet search tool to look up JES2
10 Properties. But is it more extensive than that?

11 A. It's very extensive.

12 Q. Okay. And have you reviewed it?

13 A. I have.

14 Q. And does it contain a number of different topics?

15 A. It does.

16 Q. Let me direct your attention to Government's Exhibit --

17 THE COURT: Ms. Rattan, let me go ahead and stop
18 you. We're going to go ahead and take our morning break.

19 MS. RATTAN: Okay.

20 THE COURT: I kind of lost track of time.

21 So, ladies and gentlemen, again, please don't
22 discuss the case among yourself or anyone else. Don't do
23 any outside research. We'll take 15 minutes, come back,
24 and continue.

25 (The jury exits the courtroom, 10:43 a.m.)

1 THE COURT: Okay. Anything further from the
2 government?

3 MS. RATTAN: No, your Honor.

4 THE COURT: Defense?

5 MR. WHALEN: No, your Honor.

6 THE COURT: Okay. See you back in 15.

7 (Recess, 10:44 a.m. to 11:01 a.m.)

8 (Open court, defendant present, jury present.)

9 THE COURT: Okay. Please be seated.

10 Ms. Rattan, go ahead and continue.

11 MS. RATTAN: Thank you, your Honor.

12 BY MS. RATTAN:

13 Q. Agent Rennie, let me back up for a minute. We covered
14 the text messages that the defendant was sending that went
15 unread throughout the day and we touched on the fact that
16 there were people trying to reach him, trying to call
17 Mr. Seegan; is that right?

18 A. Correct.

19 Q. Let me show you Government's Exhibit 79, page 46.

20 And can you just kind of tell us what's happening
21 here?

22 A. Sure. It's just a picture of the call history or the
23 received -- this, actually, is all of his call history for
24 the morning of 2-19. These pictures were taken by the
25 Carrollton Police Department upon receiving Mr. Seegan's

1 phone.

2 As you see at the bottom there, Mr. Ashley -- at
3 9:11 a.m. he receives a call from Mr. Ashley. There's two
4 other calls essentially before 10:00.

5 And then all of the red are all of the missed
6 calls. So there were three unanswered calls from
7 Mr. Ashley at 11:00, two unanswered calls from Country
8 Place Elementary which I know to be the elementary school
9 of his son.

10 Mind you, the movement on Mr. Seegan's phone
11 ceased --

12 MR. WHALEN: Object to nonresponsive.

13 THE COURT: Sustained.

14 If you'll rephrase or ask the question again.

15 BY MS. RATTAN:

16 Q. And what else did you notice?

17 A. Sure.

18 You know, there was no movement on Mr. Seegan's
19 phone essentially after the last call at 9:42. So
20 everything in red -- Country Place Elementary is his son's
21 elementary school, so it's clear that the elementary school
22 had called him --

23 MR. WHALEN: Objection, calls for speculation.

24 THE COURT: Sustained.

25 *

1 BY MS. RATTAN:

2 Q. What does the phone show in red there about the
3 elementary school?

4 A. That they attempted to reach Mr. Seegan and there was
5 no answer.

6 Q. And so the phone -- we know Mr. Seegan's phone shows
7 that his last step was logged at 9:33 a.m. and his final
8 call was answered at 9:42 a.m.

9 And that's shown on the exhibit that we're looking
10 at right now, the 888 number ending in 3609?

11 A. Correct.

12 MR. WHALEN: Objection as to leading.

13 THE COURT: Sustained.

14 BY MS. RATTAN:

15 Q. So what is this?

16 A. The call history on Mr. Seegan's phone.

17 Q. So let me shift gears again but also look at the
18 timeline. Let's look at what is wire fraud as Count 14 and
19 bank theft as Count 19.

20 So let me direct your attention to the events of
21 February 21st of 2020.

22 MS. RATTAN: And if we can publish Government's
23 Exhibit 133.

24 BY MS. RATTAN:

25 Q. What is this?

1 A. This is the outline of the activity --

2 MR. WHALEN: Objection once again, improper
3 summary. It's cumulative of his previous testimony, your
4 Honor. We'd object.

5 THE COURT: Overruled.

6 A. This is an outline of the summary of events as
7 described by the Texas Capital Bank witness related to the
8 attempt on the morning of 2-21, the access -- the attempted
9 access to Mr. Seegan's account by an IP address tied to
10 Mr. -- the defendant, Keith Ashley. And then --

11 BY MS. RATTAN:

12 Q. Located where?

13 A. In the Eastern District of Texas.

14 And then Number 2 is the successful transfer of
15 money from Mr. Seegan's Texas Capital Bank account from an
16 IP address that's attached to Mrs. Sakdida Seegan.

17 And the evidence shows, Number 3, that it was the
18 \$20,000 transfer that went from Mr. Seegan's Texas Capital
19 Bank to KBKK, LLC, BB&T bank ending in 8725 which is owned
20 by the defendant, Keith Ashley, which is -- the bank and
21 all the indicia of the bank related to Mr. Ashley's account
22 is located in the Eastern District of Texas.

23 Q. Okay. So he tries first in the Eastern District of
24 Texas --

25 MR. WHALEN: Your Honor, I'm going to object to

1 the form of the question.

2 THE COURT: Well, the question isn't over yet.

3 MR. WHALEN: She's testifying, and it's leading.

4 THE COURT: Well, let her finish her question
5 before you object.

6 BY MS. RATTAN:

7 Q. And then what happens?

8 A. There was an attempt in the Eastern District of Texas.
9 There was a successful transfer which started in the
10 Northern District of Texas and ended in the Eastern
11 District of Texas, which is the \$20,000 transfer from Texas
12 Capital Bank. Again, it went through -- as it was BB&T, it
13 went through North Carolina and then it terminated -- it
14 ended with the deposit into the BB&T 8725 owned by KBKK,
15 LLC, in control of the defendant, Keith Ashley, which is
16 located in the Eastern District of Texas.

17 Q. And so how far did the defendant drive out of the
18 Northern into the Eastern to get the \$20,000?

19 A. 2.5 miles.

20 Q. And then where did the money go once he accessed it?

21 A. The money went to his account in the Eastern District
22 of Texas.

23 Q. So if we look at Government's Exhibit 133 and then we
24 look at the timeline here, it would be, Number 1, the
25 attempt and then, Number 2, when he gets it and then,

1 Number 3, the money goes back to the EDTX; is that right?

2 A. Correct.

3 So it's a circle. It starts in the Eastern --

4 MR. WHALEN: Objection to the narrative, your
5 Honor.

6 THE COURT: Just ask another question.

7 BY MS. RATTAN:

8 Q. So what happens?

9 A. If you think of it as a circle, the attempt was in the
10 Eastern District, the success was in the Northern District,
11 and the actual transfer started in the Northern and ended
12 in the Eastern.

13 Q. Now, just before break we started to talk about the
14 defendant's Internet search history. And you said that
15 you've reviewed it?

16 A. I have.

17 Q. As you reviewed the Internet search history of the
18 defendant, did he seem to be concerned about the medical
19 examiner and the medical examiner's report?

20 MR. WHALEN: Your Honor, I'm going to object.
21 That calls for speculation.

22 THE COURT: Overruled.

23 A. That's correct.

24 MS. RATTAN: So let's look at Government's
25 Exhibit 98, the medical examiner's report.

1 BY MS. RATTAN:

2 Q. This is the medical examiner's report issued by
3 Southwestern Institute of Forensic Sciences. Does he
4 google that, or does he use an Internet search engine to
5 look that up?

6 A. He does.

7 Q. And it's about James Seegan. Is the defendant
8 repeatedly researching James Seegan?

9 MR. WHALEN: Once again, your Honor, we'd object.
10 This is an improper use of a summary witness, and it's
11 cumulative of the testimony.

12 THE COURT: Overruled.

13 A. That's correct.

14 MS. RATTAN: And then if we can look at page 5.

15 BY MS. RATTAN:

16 Q. Of course this is the autopsy report. Page 5 of
17 Government's Exhibit 98, does this contain the conclusions?

18 A. It does.

19 Q. And then you have the medical examiner, Emily Ogden, on
20 April 1st of 2020. And what does she conclude that the
21 manner of death is?

22 A. Suicide.

23 MS. RATTAN: And then if we can back up to the
24 previous page, page 4. Government's Exhibit 98, page 4.

25 *

1 BY MS. RATTAN:

2 Q. This is the toxicology. And the drug screen right here
3 shows what?

4 A. "Etomidate detected."

5 Q. Okay. And does it indicate something after the drug
6 screen? What are those letters?

7 A. It is. Q-T-O-F.

8 Q. QTOF. Do you know what QTOF is?

9 A. My understanding is it's a machine used to test the
10 blood. It's some high-tech machinery that SWIFS has to
11 test the blood for different drugs that is not -- is not
12 available or is not --

13 MR. WHALEN: Objection, narrative, nonresponsive.

14 THE COURT: Just go ahead and ask another
15 question.

16 BY MS. RATTAN:

17 Q. Did the defendant, in his search history, research what
18 QTOF is?

19 A. He searched that acronym, correct.

20 Q. Let me direct your attention to Government's
21 Exhibit 127A, page 7.

22 MS. RATTAN: And if we can do a side-by-side
23 screen. 127A, page 7.

24 1-2-7-A, page 7.

25 *

1 BY MS. RATTAN:

2 Q. Okay. Is this, on the right side of the screen, the
3 defendant's Internet search history?

4 A. Sure. I believe it's line -- it appears to be lines 77
5 and 78 and 79, 80, 81 are all searches related to -- the
6 search -- the search inserted -- typed into Google was
7 "drug screen (QTOF)."

8 Q. "Drug screen (QTOF)"?

9 A. Correct.

10 Q. And, in fact, is that the exact test that was used by
11 the medical examiner?

12 A. Correct.

13 Q. And --

14 A. It's the machinery used by the medical examiner,
15 correct.

16 Q. And then that test revealed what?

17 A. "Etomidate detected."

18 Q. Now, these searches happened at approximately what
19 time, the QTOF searches?

20 A. It's a little fuzzy for me. Looks like it's September
21 the 3rd of 2020. Is it 7:00 a.m. (UTC-5)?

22 Q. So within 5 minutes of searching "QTOF," was the
23 defendant searching James Seegan's name?

24 A. Correct.

25 Q. We can look. So we have the "QTOF" searches right

1 here.

2 And then what are these searches within the same
3 5-minute period?

4 A. Right. Prior -- shortly -- just prior to the search of
5 "QTOF" was "James Seegan Carrolllton Tx," "James Seegan
6 Carrolllton Tx." Yeah, all of those a few minutes
7 beforehand.

8 Q. Now back to the medical examiner. Did the medical
9 examiner later revise the death?

10 A. She did.

11 MS. RATTAN: If we can look at Government's
12 Exhibit 99, page 1.

13 BY MS. RATTAN:

14 Q. What is this?

15 A. This is a Cause of Death Report for Mr. Seegan.

16 Q. And, of course, the cause of death remains the same,
17 contact gunshot wound to the head.

18 But the manner of death is changed from suicide to
19 what?

20 A. Undetermined.

21 Q. And then what's the date here?

22 A. September 10th of 2020.

23 Q. So it went from, April of 2020, being suicide to,
24 September of 2020, the medical examiner -- cause of death
25 is the same, but manner of death now is undetermined; is

1 that right?

2 A. That's correct.

3 Q. Now let's go back and look at the defendant's Internet
4 search history.

5 MS. RATTAN: If we can look at Government's
6 Exhibit 125B, pages 5 and 6.

7 BY MS. RATTAN:

8 Q. We can look at these searches. The top one is about
9 the heat index today, but if we can focus on these searches
10 right here.

11 And these are May 9th of 2020; is that right?

12 A. Correct.

13 Q. And what are the searches here?

14 A. It's, from the bottom, "manslaughter deferred
15 adjudication," "manslaughter deferred adj," "is there
16 different types of manslaughter in Texas," "is there
17 different types of man," "is there different types of
18 manslaughter in Texas," and so on and so forth.

19 Q. But basically variations on types of ways to charge
20 someone with killing someone; is that right?

21 MR. WHALEN: Objection to the form of the
22 question, your Honor.

23 THE COURT: Just rephrase the question.

24 BY MS. RATTAN:

25 Q. When you see this, what does it mean to you?

1 A. Well, it looks --

2 MR. WHALEN: Objection as to relevance.

3 THE COURT: Overruled.

4 A. It appears that Mr. Ashley was searching causing the
5 death of someone else, what are the different types of ways
6 that that can be charged.

7 And then at the bottom it appears to be, based
8 upon the search -- and that's what I have -- that is -- if
9 with manslaughter you can be eligible for deferred
10 adjudication.

11 BY MS. RATTAN:

12 Q. And what's deferred adjudication?

13 A. My understanding of deferred adjudication is if you're
14 given that, then you have a certain period of time where if
15 you don't commit another crime, then -- it's kind of a --
16 in layman's terms, I would say semi-probationary period
17 after the initial charge.

18 MS. RATTAN: And then if we can look at 125B,
19 page 6, up here at the top.

20 BY MS. RATTAN:

21 Q. What's happening there?

22 A. It says "manslaughter jail time," "manslaughter,"
23 "manslaughter deferred adjudication."

24 Again it appears the defendant, based upon his
25 research history, is searching manslaughter and concerned

1 about manslaughter and, at least on Instance 62,
2 manslaughter along with jail time.

3 MS. RATTAN: And then if we can look at
4 Government's Exhibit 125B, page 7 through 9. First page 7.

5 BY MS. RATTAN:

6 Q. What's he searching here?

7 A. "Dallas county probate records," "Dallas County
8 probate," "Dallas County."

9 Q. Is that where Mr. Seegan's will or estate would have
10 been handled?

11 A. Right, his will and estate, as he was in Dallas County,
12 would have been handled by Dallas County Probate.

13 Q. And if we can look at, on that same page below, 81 and
14 82.

15 A. Searching Mr. Seegan's name and in addition to "Dallas
16 County."

17 MS. RATTAN: And then if we can focus on page 8.

18 BY MS. RATTAN:

19 Q. More "James Seegan," and then he starts focusing on
20 "Kirby Keller." What is that?

21 A. Mr. Keller is the nephew of Mr. Seegan.

22 MS. RATTAN: And then if we can page down a little
23 more.

24 BY MS. RATTAN:

25 Q. He goes back and is focusing on James Seegan; is that

1 right?

2 A. Right. He appears to be looking for Mr. Seegan in
3 Dallas County, and then at this time the additional search
4 term is "cemetery."

5 MS. RATTAN: And then if we can look on page 9.

6 BY MS. RATTAN:

7 Q. Right here, while he's searching about Mr. Seegan, what
8 does he search?

9 A. "How to find out location someone is buried or
10 cremated."

11 MS. RATTAN: And then if we can go to Government's
12 Exhibit 125B, page 14.

13 And at the bottom, lines 162 through 165.

14 BY MS. RATTAN:

15 Q. This is May of 2020, and he's looking at "sample letter
16 to accompany a gift."

17 Were there gift documents that were found when the
18 defendant's house was searched?

19 A. That's correct.

20 Q. And then were there documents that it appeared the
21 defendant was manufacturing himself?

22 A. Evidence that was collected appeared to be that there
23 was some manipulation of documentation within the
24 defendant's custody.

25 Q. And would those be the documents that were provided to

1 the jury and they passed around when Detective Bonner was
2 testifying?

3 A. Correct.

4 MS. RATTAN: And then if we can go to 125B,
5 page 15, and just look at this.

6 BY MS. RATTAN:

7 Q. Here there's more gift letter, gifting. What does the
8 focus turn to next?

9 A. Sure. 168 to the bottom, if you read from the bottom
10 up because that's -- that is the timing. So "nest camera
11 indoor," "nest cam," "nest cam indoor," "nest cam," "can
12 nest camera indoor detect sound if no motion detected,"
13 "can nest camera indoor detect sound if no motion," "nest
14 camera indoor," "nest camera."

15 So the defendant's search history is related to
16 Nest cameras and what the capabilities of the Nest camera
17 are to detect sound if there is no motion.

18 Q. And was that an important issue in this case?

19 A. It was.

20 Q. Did the garage camera in Mr. Seegan's house activate at
21 10:15 a.m.?

22 A. Right.

23 The garage camera at 10:15 activated --

24 MR. WHALEN: Objection, nonresponsive.

25 THE COURT: Just ask the question again.

1 BY MS. RATTAN:

2 Q. What happened?

3 A. At 10:15 a.m. on February 19th of 2020, the Nest camera
4 owned by James Seegan in the garage activated with no
5 motion.

6 Q. And then what's the defendant asking?

7 A. "Can nest camera indoor detect sound if no motion."

8 MS. RATTAN: Then let's look at Government's
9 Exhibit 125B, page 16.

10 BY MS. RATTAN:

11 Q. What's he looking at here?

12 A. "Statute of limitations."

13 MS. RATTAN: And then if we can look at 125B,
14 page 18, line 215, 2-1-5.

15 BY MS. RATTAN:

16 Q. What's he asking there?

17 A. "Can you get a full" -- "can you get full police
18 reports of a suicide" -- and then it just says C-A-R-R,
19 which are the first four letters of "Carrollton," Texas.

20 MS. RATTAN: And then let's focus on what he wants
21 to know about bank fraud.

22 BY MS. RATTAN:

23 Q. Let me direct your attention to 125B, page 21,
24 line 253, 254, and 255.

25 On line 253 what's the search?

1 A. Okay. If you read from the bottom -- or 253 is
2 "statute of limitations banking fraud."

3 And then again 254 and 255 are related to "ring,"
4 which is a Ring doorbell camera. That's the assumption.
5 "Does ring pick up sound if no motion," "does ring pick up
6 sound if no motion detected."

7 MS. RATTAN: And then if we can look at 125B,
8 page 22, line 261.

9 A. The defendant searched "time of death calculator."

10 MS. RATTAN: 125B, page 23.

11 And if we can look through 261 -- or, rather, 281.
12 Pardon me.

13 BY MS. RATTAN:

14 Q. So again what is this?

15 A. "JES2 LLC," which is the company owned by Mr. Seegan,
16 "jes22 investments llc," "JES22 property llc."

17 Q. And then here, focused back on crime, what's going on?

18 A. (As read): "Statute of limitations for Texas,"
19 "statute of limitations criminal," and "then Texas Code of
20 Criminal Procedure 12.01, Subsection 2."

21 Q. And do you know what that is?

22 A. After review, I believe it's the punishment section of
23 the Rules of Criminal Procedure.

24 Q. Okay.

25 MS. RATTAN: If we can look at 125B, page 24,

1 line 291 through 294.

2 BY MS. RATTAN:

3 Q. What's going on here?

4 A. The defendant is searching "penal code on theft,"

5 "texas penal code on theft."

6 And then it goes on to -- or, actually, I think
7 this is previous to those searches -- "can you tell when
8 someone died time," "can you tell when someone died
9 timeline."

10 MS. RATTAN: And then 125B, page 25, lines 303
11 through 310.

12 BY MS. RATTAN:

13 Q. Again is he looking at the business that Mr. Seegan
14 had?

15 A. He did.

16 Q. And is he wondering about a Death Certificate?

17 A. He is.

18 Q. And what is that search?

19 A. "Will a death certificate be issued if suspicious
20 circumstances."

21 Q. And then more back to the Nest camera; is that right?

22 A. Yes, many searches related to Nest and sound and
23 motion.

24 MS. RATTAN: And then if we can look at 125B,
25 page 26, 317 through 321.

1 BY MS. RATTAN:

2 Q. What's happening here?

3 A. He's searching the defendant -- excuse me -- the
4 deceased. "Jim seegan carrollton texas," "Parkland
5 Securities compliance," "Parkland Securities compliance
6 manual," and then "can you get full police reports of a
7 suicide carrollton," "can you get full police reports of a
8 suicide."

9 MS. RATTAN: And then if we can look at 125B,
10 page 27, at the bottom.

11 BY MS. RATTAN:

12 Q. What's going on here again?

13 A. Searching Mr. Seegan's business, the business that
14 Mr. Seegan owned.

15 MS. RATTAN: And then let's focus on more of the
16 search history. If we can go now to Government's
17 Exhibit 126, page 1.

18 BY MS. RATTAN:

19 Q. And what's he searching here?

20 A. He's searching the deceased, Mr. Seegan, and his name,
21 Carrollton, Texas.

22 On line 7, "copy of me report." Based upon the
23 evidence, "me," initials M-E is medical examiner.

24 "Copy of me report dallas county medical
25 examiner," "copy of dallas county autopsy."

1 MS. RATTAN: And 126, page 2.

2 We can just focus on the searches.

3 BY MS. RATTAN:

4 Q. And what are these searches about?

5 A. They are related to, again, the autopsy, medical
6 examiner online records, autopsy, autopsy, "dallas county
7 medical examiner online records."

8 MS. RATTAN: And then page 3. 126, page 3.

9 A. Autopsy report, autopsy results, "dallas county autopsy
10 results," and then he actually searches the deceased's
11 wife, "Dida seegan carrollton."

12 MS. RATTAN: And 126, page 4.

13 A. Again Mr. Seegan's wife with the city, the state. He
14 searches "Sakdida Seegan face," "sakdida seegan facebook."

15 MS. RATTAN: Then page 5 of 126.

16 A. Sakdida -- "dida seegan carrollton," Facebook, "Sakdida
17 Seegan face," Facebook, searches related to that.

18 MS. RATTAN: And then the next page. 126, 6.

19 BY MS. RATTAN:

20 Q. What's happening here?

21 A. Again, more searches related to Dida Seegan as well as
22 "James Seegan obituary" searches.

23 MS. RATTAN: Page 7.

24 A. More searches related to the deceased, James Seegan.
25 Included in those searches, a search related to "james

1 seegan obituary."

2 MS. RATTAN: Page 8.

3 A. Again searches related to the deceased, James Seegan,
4 along with obituary.

5 MS. RATTAN: Now page 9.

6 A. More searches related to James E. Seegan, related to
7 probate records in Dallas County.

8 MS. RATTAN: Page 10.

9 A. James -- related to James Seegan again, Dallas County
10 cemetery, related to again "can you get full police reports
11 of a suicide," Carrollton Texas news, and then "JES2 LLC
12 James Seegan" search as well.

13 BY MS. RATTAN:

14 Q. And then let me direct your attention to Government's
15 Exhibit 127A.

16 MS. RATTAN: If we can look at page 2, line 17.

17 BY MS. RATTAN:

18 Q. And what's he searching here?

19 A. "Can manner of death be changed by the medical ex" and
20 then it says "can manner of death be changed by medical
21 examiner," "can manner of death be changed by medical ex."

22 So searching on the phone which is seized from the
23 defendant, Keith Ashley, there are searches related to if
24 the cause of death be changed by the medical examiner.

25 Q. And, in fact, was the information on the ME's report

1 changed, the medical examiner's report?

2 A. It was.

3 Q. From suicide to undetermined?

4 A. Correct.

5 MS. RATTAN: And then if we can look at

6 Government's Exhibit 127A, page 4.

7 BY MS. RATTAN:

8 Q. What's going on here?

9 A. Looks like there's searches related to SWIFS, which is
10 the Southwestern Institute of Forensic Sciences. Then it
11 says -- asking what an acronym stands for, IFS, what does
12 "IFS" stand for.

13 Q. And then it continues on.

14 MS. RATTAN: Just roll through the pages.

15 BY MS. RATTAN:

16 Q. He keeps searching and searching --

17 A. Right.

18 Q. -- about SWIFS; is that right?

19 A. Many searches about SWIFS, correct.

20 MS. RATTAN: And then 127A, page 7.

21 BY MS. RATTAN:

22 Q. This is what we looked at earlier with the QTOF related
23 to the testing of the etomidate; is that right?

24 A. Correct.

25 Q. And he does that search at the same time, or around the

1 same time, within 5 minutes of searching James Seegan's
2 name?

3 A. Well, I'll point out, for instance, on line 81, the way
4 that it's typed in to the search, "drug screen (QTOF)," is
5 identical as how it shows up on the autopsy report.

6 MR. WHALEN: Objection, nonresponsive.

7 THE COURT: Just rephrase the question or reask
8 it.

9 MS. RATTAN: Yes, your Honor.

10 BY MS. RATTAN:

11 Q. Does this look familiar to you, the way this is typed
12 in?

13 A. Right. It's typed in identical to how it's typed -- or
14 written indicated on the autopsy report for Mr. Seegan.

15 MS. RATTAN: Now let's jump ahead to page 24,
16 Government's Exhibit 127A page 24.

17 If we can look at line 251.

18 BY MS. RATTAN:

19 Q. What's going on here?

20 A. There are searches related to "Detective Bonner
21 Carrollton Police," which Detective Bonner was the lead
22 detective of the case related to the death of Mr. Seegan in
23 Carrollton, Texas.

24 MS. RATTAN: And if we can just jump forward to
25 127A, page 32, line 346.

1 A. More searches related to Detective Bonner, "who is
2 detective bonner in carrollton texas," "who is detective
3 bonner."

4 BY MS. RATTAN:

5 Q. In fact, are there a number of searches related to who
6 Detective Bonner is?

7 A. Correct.

8 MS. RATTAN: And going back to 127A, page 25.

9 BY MS. RATTAN:

10 Q. More inquiries about autopsy, on line 262.

11 A. "Dallas county autopsy results," "Dallas County" --
12 yes, correct.

13 MS. RATTAN: And then page 26.

14 BY MS. RATTAN:

15 Q. More inquiries about Mr. Seegan's family?

16 A. Correct, the wife, Ms. Sakdida Seegan.

17 Q. And then a number of searches about Detective Bonner;
18 is that right?

19 A. Correct.

20 Q. Just -- would you say there's at least over 30 on
21 Detective Bonner?

22 A. There is a voluminous amount.

23 MS. RATTAN: 127A, page 41.

24 MR. WHALEN: Your Honor, at this time we would
25 object. Once again, it's improper use of a summary

1 witness and --

2 THE COURT: Overruled.

3 MR. WHALEN: -- he's just reading from an exhibit.

4 THE COURT: Overruled.

5 BY MS. RATTAN:

6 Q. And what's going on here?

7 A. Again "Detective Bonner carrollton police department"
8 searches.

9 Q. And then at some point does he also research himself
10 and enter "KBKK"?

11 A. He does.

12 MS. RATTAN: 127A, page 41.

13 A. "KBKK LLC," both upper and lower case searched.

14 MS. RATTAN: And then if we can go to 127A,
15 page 70.

16 BY MS. RATTAN:

17 Q. Does he focus again on Mr. Seegan's family, both Dida
18 and his nephew, Kerby Keller?

19 A. He does.

20 Q. In fact, are there multiple searches about Dida,
21 Sakdida, and Kerby Keller?

22 A. There are.

23 Q. And it goes on for several pages; is that right?

24 A. It does.

25 MS. RATTAN: And 127A, page 79.

1 BY MS. RATTAN:

2 Q. Again is he looking at the James Seegan -- mixed in
3 with SMU football schedule? Is he looking at
4 Mr. Seegan's -- or looking for Mr. Seegan's obituary?

5 A. He is.

6 MS. RATTAN: And then if we can look at page 88.

7 BY MS. RATTAN:

8 Q. Of course, we've been focusing on things that relate to
9 the Seegans and the investigation. He also does searches
10 looking for the top 10 steakhouses in Dallas; is that
11 right?

12 A. He does.

13 Q. And are there also -- for example, on page 90 --
14 searches related to Choctaw?

15 MS. RATTAN: We can look at 1087.

16 A. Correct, "choctaw steakhouse," "choctaw steak,"
17 "choctaw steakhouse. "

18 There is a myriad of searches. There's many, many
19 lines --

20 MR. WHALEN: Objection, nonresponsive.

21 THE COURT: If you'll ask the question again.

22 BY MS. RATTAN:

23 Q. And what are there a number of inquiries related to?

24 A. There's -- related to the death of Mr. Seegan, his
25 family, the obituary, the medical examiner's office, the

1 type of equipment used, timing, probate, Dallas County, in
2 addition to just personal searches related to steakhouses
3 or SMU football or what the weather is today.

4 So when the download of the cell phone occurred,
5 the download of his search history was voluminous and
6 complete.

7 MS. RATTAN: And then if we can just end with
8 127A, pages 214 and 215, lines 2591 to end.

9 A. "Sample letter to accompany a gift" multiple times and
10 then there's searches about "nest cam," "nest camera
11 indoor," "can nest camera indoor detect sound if no
12 motion," multiple searches related to that.

13 BY MS. RATTAN:

14 Q. The Nest camera.

15 And based on your investigation and review of the
16 evidence, was the Nest camera, in fact, significant in this
17 investigation?

18 A. Yes.

19 Q. So it was significant in terms of the activation in the
20 garage?

21 A. Correct.

22 Q. And then did the Nest camera also capture coming,
23 leaving, coming back, and leaving again?

24 MR. WHALEN: Objection as to leading.

25 THE COURT: Well, I'll overrule the objection.

1 A. It did.

2 BY MS. RATTAN:

3 Q. And then would you say that the defendant, in his
4 search history, multiple times and repeatedly searched
5 issues related to the Nest camera?

6 MR. WHALEN: Objection, asked and answered.

7 THE COURT: Sustained.

8 BY MS. RATTAN:

9 Q. Did you find it significant that the defendant was
10 repeatedly searching that?

11 A. It was clear that the defendant was very concerned
12 about the Nest camera.

13 MR. WHALEN: Objection, nonresponsive and calls
14 for speculation.

15 THE COURT: Well, sustained. It's nonresponsive.

16 MS. RATTAN: Your Honor, may I have just a minute?

17 THE COURT: Yes.

18 (Off-the-record discussion among counsel for the
19 government.)

20 MS. RATTAN: Thank you, your Honor. We'll pass
21 the witness.

22 THE COURT: Cross-examination?

23 CROSS-EXAMINATION OF JASON RENNIE

24 BY MR. WHALEN:

25 Q. Agent Rennie, good morning.

1 A. Good morning, sir.

2 Q. All right. First, I want to talk to you about -- you
3 mentioned the LLC, correct?

4 A. Yes, sir.

5 Q. And you said the LLC owned real estate; is that
6 correct?

7 A. It did.

8 Q. Okay. It owned a single house, correct?

9 A. It did.

10 Q. Okay. And that single house was previously owned by
11 his brother Bob, correct?

12 A. I believe that's correct.

13 Q. Okay. And his -- he got the house from his brother Bob
14 after Bob had killed himself, correct?

15 A. I don't know what the circumstances of the transfer of
16 the property, but I will say that it was previously owned
17 by his brother and the property is located in Frisco.

18 Q. Okay. And the LLC was -- he owned the house for a year
19 or so before he formed the LLC, correct?

20 A. I believe that it was transferred into his name, then
21 it was transferred into the company name.

22 Q. Okay.

23 A. Yes.

24 Q. And so would you -- and you're familiar with LLCs,
25 correct?

1 A. I am no expert and no CPA; but I am aware of what an
2 LLC is, yes, sir.

3 Q. Okay. So an LLC -- you could have a house owned by an
4 LLC in order to write off the expenses for the house other
5 than your primary house; is that fair?

6 A. Yes.

7 Q. Okay. And did you ever look at any profit and loss
8 statements or tax returns from the LLC?

9 A. I don't believe we had any tax returns. If it was an
10 LLC, we didn't have any -- if there were tax returns for
11 the LLC, we did not have access to those.

12 Q. Okay. Now, you say you don't have access to tax
13 returns. I mean, you work for the Federal Bureau of
14 Investigation, correct?

15 A. I do.

16 Q. Okay. And the tax returns are held by the Internal
17 Revenue Service, correct?

18 A. They are.

19 Q. And they are a government agency, correct?

20 A. Correct.

21 Q. And did you inquire of the IRS to ask for those tax
22 returns?

23 A. We did not.

24 Q. So as you sit here today, you cannot say whether or not
25 that LLC generated any type of profit, correct?

1 A. I cannot.

2 Q. Okay. And that -- the expenses that were used to pay
3 for the rental house could also be commingled with what he
4 spent for his own house, correct?

5 A. Well, the spreadsheet that was shown on the exhibit
6 was -- clearly it was made to track the expenses for the
7 company and the expenses incurred by the company for the
8 property that you mentioned.

9 Q. Okay. Is that "no"?

10 A. Rephrase the question.

11 Q. Okay. The question is: Did you look at to determine
12 whether or not any of the expenses through that credit card
13 account also went to expenses for his own home?

14 A. All of the expenses on that credit card account
15 appeared to be for the property owned by JES2 Properties,
16 LLC.

17 Q. Okay. And all those products and services, like the
18 plumber and everything else, those are located here in the
19 state of Texas, correct?

20 A. There are some of them that are located in the state of
21 Texas, aside from the ones that we mentioned on direct.

22 Q. Okay. So, just so -- just so we're clear, the only
23 piece of property the LLC owned was the house, correct?

24 A. The LLC owned one piece of property that was located in
25 Frisco.

1 Q. And the LLC is just simply a flow-through to his
2 personal return, correct?

3 A. I can't -- I think there's other tax situations on how
4 an LLC can be handled, so I can't speculate on that because
5 I don't have his tax returns.

6 Q. Okay. And an LLC is also a vehicle for liability
7 purposes, right?

8 A. It is.

9 Q. Okay. That's why they call -- and "LLC" stands for
10 "limited liability corporation," correct?

11 A. Even I could figure that one out, right.

12 Q. Okay. So do you -- well, how much was the house worth?

13 A. I believe -- on open source, the most recent taxable
14 value was between 400- and 500,000, I believe.

15 Q. Okay. And was there any mortgage or any liens on it?

16 A. I don't have that information.

17 Q. Okay. And just because from an open source -- that's
18 what's on the appraisal district role, correct?

19 A. Yes.

20 Q. Okay. That's not what the house potentially could sell
21 for, correct?

22 A. Correct.

23 Q. Okay. And we all agree that currently the market --
24 maybe it's slowing down a little bit but pretty favorable
25 to the people that own property?

1 A. If you're selling it.

2 Q. Correct. You would agree with that?

3 A. Yes.

4 Q. Okay. So even though it's listed at 450-, \$500,000, it
5 could be worth a lot more on the open market?

6 A. Sure. The taxable value is one number, and the market
7 value is what the market will bear. If somebody is willing
8 to pay you more, then it's worth more.

9 Q. Okay. Did you ever look into the market value of the
10 house at all?

11 A. I did not.

12 Q. Okay. Now, when you talked earlier about his net
13 worth, did you factor in the value of that house into his
14 net worth?

15 A. I -- the net worth figure that we relied on -- there
16 was multiple documents that Mr. Seegan had filed with
17 different entities that indicated his net worth was
18 3 million, so that's the number we relied on.

19 Q. Okay. And so just so people understand net worth, net
20 worth is accumulation of all your assets, correct?

21 A. Correct.

22 Q. Okay. Minus, for lack -- easier -- minus your
23 liabilities, correct?

24 A. In its simplest terms, yes.

25 Q. Okay. So if I own a house that's worth half a million

1 dollars but I owe \$400,000 to the mortgage company, the
2 only positive is \$100,000, correct?

3 A. Correct.

4 Q. Okay. So when you factored in -- looked at his net
5 worth, you came up with over \$3 1/2 million; is that
6 correct?

7 A. We're just using -- the \$3 million figure is purely a
8 written statement by Mr. Seegan at the time that it was
9 written.

10 Q. Okay. So just so we're clear, you never went in to
11 determine whether or not the total net worth, based on what
12 his -- the Carrollton house was worth, the Frisco house was
13 worth, any personal property, cars, things of that nature,
14 correct?

15 A. One would assume that Mr. Seegan took that into account
16 when he indicated his net worth. He was a very -- appeared
17 to be a very intelligent individual. But, again, it's just
18 the figures that we saw repeatedly on multiple different
19 documents that he himself was indicating that he's worth
20 \$3 million.

21 Q. Okay. And that LLC was formed in March of 2019,
22 correct?

23 A. That's correct.

24 Q. And then that -- also on that form that we showed --
25 that was shown earlier, it said 3 million-plus, correct?

1 Was there a plus sign next to it?

2 A. I believe it did say plus.

3 Q. Okay. So needless to say, it's at least 3 million but
4 going up, correct?

5 A. 3 million is -- is -- in that indication you would have
6 to say 3 million is the floor there.

7 Q. Okay. Now, you talked earlier about -- as it related
8 to the bank theft charge. Do you remember talking about
9 that?

10 A. I do.

11 Q. Okay. And I think we heard from Mr. Nielsen (*sic*) from
12 Capital Bank that the wire that was completed was in -- at
13 the house in Carrollton, Texas; is that correct?

14 A. Mr. Hilson, yes.

15 Q. Okay. And Mr. Hilson -- from what I remember from his
16 testimony, it was performed on a computer, correct?

17 A. I don't recall that.

18 Q. Okay. Is there any way to determine whether it was on
19 a computer or not?

20 A. I believe Mr. Hilson's testimony was that a multifactor
21 authentication was not required for the successful
22 transfer, which would lead me to believe that it was on a
23 device that was owned by Mr. Seegan.

24 Q. Okay. And you looked at the Capital Bank FDIC
25 certificate, correct?

1 A. I did.

2 Q. Okay. And they are located in Dallas, Texas, correct?

3 A. I believe they're headquartered in Dallas, Texas,
4 right.

5 Q. Okay. You talked also about his E*TRADE account.
6 Remember that testimony?

7 A. I do.

8 Q. His E*TRADE account was in his personal name, correct?

9 A. I believe that's correct, yes.

10 Q. It was not in JES (*sic*), LLC, correct?

11 A. That's correct.

12 Q. Okay. And we also talked -- you also talked about this
13 company called Groundfloor. Do you remember that?

14 A. I do.

15 Q. And then that was in his individual name, too, correct?

16 A. I believe, it was as an individual investor, yes.

17 Q. Okay. And Groundfloor -- my limited knowledge of it is
18 you can buy shares through that company, correct?

19 A. I think there is a fractional ownership. It's
20 essentially a debt. It's a lending company where they
21 utilize investor money to lend to real estate projects.

22 Q. Okay. And so -- but I get some -- I invest with them
23 and they give me a return, correct?

24 A. Yeah. I think the model is that you provide money
25 which they use to lend; and then the assumption is whatever

1 money they make on the lending side, then that is used to
2 pay returns.

3 Q. Okay. And just so we're clear, something like
4 Groundfloor is no different than really a bank in the sense
5 of I deposit my money with a bank in a CD, savings account
6 and things like that, and that gives the bank the ability
7 to then do loans and loan that money out and make money on
8 it, correct?

9 A. I think it's a little bit different. A bank -- when
10 you deposit money with a bank, for the most part if you're
11 under the threshold, the FDIC threshold, your money is
12 guaranteed.

13 If you give it to a company as in Groundfloor, I'm
14 sure their prospectus would say there are no guarantees,
15 past performance is not indicative of --

16 Q. Okay.

17 A. -- future gains.

18 So it's more of an investment vehicle. It's more
19 of what's akin to providing capital for debt, right? So
20 it's a little bit different -- it's a lot different, in my
21 opinion, than a savings or checking account.

22 Q. That's fair but I'm -- it's an individual investment
23 that he made?

24 A. He made an investment into what the SEC would consider
25 to be a security, right --

1 Q. Okay.

2 A. -- versus deposit -- you know, deposit into a
3 depository account, which is a guarantee --

4 Q. And if I got shares of Google, that's a security,
5 correct?

6 A. Correct.

7 Q. Okay. So Groundfloor, Google, Amazon, if I buy
8 individual shares, I'm purchasing a security?

9 A. Right.

10 I think theirs was a little bit different than --
11 you know, I think their investment was directly with the
12 company. It was more of a prospectus, maybe like buying a
13 fractional share of an oil well or something like that
14 versus going to your brokerage account and buying a share
15 of Google.

16 Q. Okay. And then I think you also talked about his
17 Fidelity account, that he had a Fidelity account?

18 A. Yes, sir.

19 Q. Okay. And that was in his individual name as well?

20 A. I believe so.

21 Q. Okay. Did you determine how much money he had in his
22 E*TRADE account at one time?

23 A. I did. I saw there was a fluctuating balance, but it
24 was -- it was a hefty balance, you know, give or take, you
25 know, a half a million dollars.

1 Q. Okay. And then the Fidelity account?

2 A. I think it was smaller than that.

3 Q. Okay. Did you look at his 401(k)?

4 A. I did not.

5 Q. Okay. Needless to say, the 401(k) would have been part
6 of the \$3 million we talked about or --

7 A. Yes, Mr. -- like I said, Mr. Seegan was a pretty
8 meticulous person; so it didn't seem to me, based upon the
9 evidence, he would be putting numbers that didn't tie to
10 specific values of accounts and assets.

11 Q. Now I want to talk to you about these searches.

12 A. Sure.

13 MR. WHALEN: If we can go to -- I hope I've got
14 this right -- Government's Exhibit 125B, page 16.

15 MS. RATTAN: Your Honor, may we approach briefly?

16 THE COURT: Yes.

17 MS. RATTAN: Thank you.

18 (Sidebar conference, off the record.)

19 MR. WHALEN: Okay. If we can look at Government's
20 Exhibit 125B, page 16.

21 Go down a little bit.

22 Okay. Stop right there.

23 BY MR. WHALEN:

24 Q. Do you see line 186?

25 A. I do.

1 Q. Okay. And can you read that for me, what it says?

2 A. "What type of case does ralph freeman handle."

3 Q. Okay.

4 MR. WHALEN: You can take that down.

5 BY MR. WHALEN:

6 Q. And also there is no date next to that, correct?

7 A. I think on the far right there is a date. The way it
8 was snipped to show --

9 Q. Okay.

10 A. But there is a date there.

11 Q. In the course of your investigation, you determined
12 that Ralph Freeman was a private investigator, correct?

13 A. I'm not certain.

14 Q. Okay. You were in the courtroom when Detective Bonner
15 testified, correct?

16 A. I believe there's times when I stepped out, but for the
17 majority I was.

18 Q. Okay. And if Detective Bonner testified that Ralph
19 Freeman was a private investigator --

20 A. I would take his word for it.

21 Q. Okay. And that -- if he also testified that
22 Mr. Freeman had contacted Mr. Ashley in approximately
23 April of 2020, you'd take his word for it as well?

24 A. If Mr. -- if Detective Bonner testified to that, I
25 would take his word for it.

1 Q. Okay. Then as we -- you saw a bunch of other searches
2 that occurred in May, correct?

3 A. Yes.

4 Q. Okay. And then we saw the majority of the searches
5 happened on September 3rd of 2020, correct?

6 A. There were searches before and after that date but --

7 Q. Okay. And you were present when Mr. Bonner said that
8 he made contact with Mr. Ashley on September 3rd, correct?

9 A. Correct.

10 I think he contacted him before that date, but I
11 know he was in contact with him on that date.

12 Q. Okay. So if Detective Bonner made contact before that
13 date and on that date, that's around the time these
14 searches were made, correct?

15 A. Some of the searches shown, yes.

16 Q. Okay.

17 MR. WHALEN: Now if we look at, I think,
18 Government's Exhibit 10, page 2.

19 BY MR. WHALEN:

20 Q. Okay. And, Agent Rennie, this is the subscriber record
21 as related to the IP address at Cannes Drive in Carrollton,
22 correct?

23 A. Correct.

24 Q. Okay. And you indicated earlier in your testimony that
25 it started from July 26th of 2019 to August 27th of 2020;

1 is that correct?

2 A. Correct.

3 Q. And just so we're clear, the subscriber name is Sakdida
4 Seegan, correct?

5 A. Correct.

6 Q. All right.

7 MR. WHALEN: You can take that down.

8 BY MR. WHALEN:

9 Q. Now, also when we talked about those searches related
10 to QTOF, correct, isn't it true that Detective Bonner
11 relayed some information during that contact to Mr. Ashley
12 about the autopsy and things of that nature? Isn't that
13 true?

14 A. I can't recall what was relayed on September 3rd to
15 Mr. Ashley.

16 Q. Okay.

17 A. I mean, there was a lot that was relayed. I can't
18 recall --

19 Q. Right.

20 A. -- specifically if that was stated.

21 Q. And will you agree with me that these searches -- does
22 it appear that these searches relate to around the time he
23 had contact from either law enforcement or Mr. Freeman?

24 A. Well, it was definitely around the time he was
25 contacted by law enforcement. That's fair.

1 Q. Okay. And so just so I'm clear, the transaction of the
2 \$20,000 on the 21st, that was effectuated from Mr. Seegan's
3 house on that date, correct?

4 A. The successful transfer of the \$20,000 went from -- it
5 was connected to an IP address at Mr. Seegan's address and
6 went from a bank in the Northern District to a bank in the
7 Eastern District, correct.

8 Q. And -- and fair to say that in order to capture that IP
9 address, the device has to be connected, whether hard-wired
10 or Wi-Fi, to that device, correct -- to that IP address,
11 correct?

12 A. The IP address is connected to, you know, the account
13 which we showed, which is on the network assumably in
14 Mr. Seegan's residence.

15 Q. And the total, once again, is \$20,000, correct?

16 A. Correct.

17 Q. And it's your testimony under oath that Mr. Seegan's
18 net worth was well over \$3 1/2 million; is that correct?

19 A. Again, to reiterate, the number that I'm relying on is
20 the number that Mr. Seegan provided on multiple documents
21 that were in evidence; and that's what we're relying on his
22 net worth figure as is \$3 million.

23 Q. Okay. And there is no reason to doubt that, correct?

24 A. I don't have any reason to doubt it or question it. I
25 just take it for what it is. If Mr. Seegan put it on an

1 application -- really in that context, it's not a tax
2 document or anything like that. There's really no reason
3 to misstate that number.

4 Q. Okay.

5 MR. WHALEN: I'll pass the witness.

6 THE COURT: Additional questions?

7 MS. RATTAN: No, your Honor.

8 THE COURT: Agent, you may step down.

9 THE WITNESS: Thank you, your Honor.

10 THE COURT: Okay. What says the government?

11 MS. RATTAN: Your Honor, members of the jury, the
12 United States rests its case-in-chief.

13 THE COURT: Thank you, Ms. Rattan.
14 What says the defense?

15 MR. WHALEN: May we approach, your Honor?

16 THE COURT: Yes.

17 (The following proceedings were conducted at
18 sidebar with all parties represented.)

19 THE COURT: Go ahead.

20 MR. WHALEN: Your Honor, obviously, we're going to
21 have a Rule 29 motion that is pretty lengthy. So we want
22 to be able to make that; but then after that, we would
23 rest.

24 THE COURT: Okay. You can do it right here. Go
25 right ahead.

1 MR. WHALEN: Let me go get my --

2 THE COURT: How long is it going to be?

3 MR. WHALEN: We're going to go through every
4 count.

5 THE COURT: Okay. That's fine. So then you're
6 not putting any evidence on, right?

7 MR. WHALEN: Correct.

8 THE COURT: Okay. So the question is -- we can
9 break for lunch but then -- well, I'll send the jury out
10 for lunch and you'll make your motions and everything. And
11 then how much time do you want for closing argument?

12 MS. RATTAN: I hope to not use this, but may we
13 please have two and a half hours?

14 THE COURT: What?

15 MS. RATTAN: I hope to not use it. I hope to give
16 the time back to the Court. But just in an abundance of
17 caution, we're asking for that.

18 THE COURT: Okay. I'm not giving you that much
19 time.

20 MS. RATTAN: I understand.

21 THE COURT: It seems unreasonable for -- it's only
22 been a six-day case.

23 MS. RATTAN: Okay.

24 THE COURT: As you know, Judge Brown's rule was
25 5 minutes per day. I don't follow that model but --

1 MR. WHALEN: I appreciate that.

2 THE COURT: I was thinking more like an hour and a
3 half per side but --

4 MS. RATTAN: May we please have an hour 45?

5 THE COURT: Ms. Rattan, I sense that you are
6 trying to negotiate with the Court.

7 MS. RATTAN: Well, I know. I understand it's up
8 to the Court but --

9 THE COURT: No, I know.

10 MS. RATTAN: Of course.

11 THE COURT: So what we have to do is -- I'm just
12 trying to -- I don't know if -- we'll get the closing
13 arguments done today. I just don't know if we'll get the
14 charge read because it is also very long. But I would
15 rather at least get the closing arguments done.

16 The question is what time should I have the jury
17 come back because we'll have to sit down and talk about the
18 charge, which I don't think will take too long based on our
19 previous work on that but -- so should I have them come
20 back at -- what time do you think?

21 MR. WHALEN: Well, do you want me to rest subject
22 to -- that way that's --

23 THE COURT: Yes. I'm going to ask you to do that.

24 MR. WHALEN: Okay.

25 THE COURT: You know -- I don't know if we'll do

1 that now or -- but we'll do that here in a second.

2 MR. WHALEN: Okay.

3 THE COURT: The question is -- because I still
4 want you to rest in front of the jury --

5 MR. WHALEN: Right.

6 THE COURT: -- we come back before we start
7 closing arguments.

8 MR. WHALEN: Right.

9 THE COURT: Again, what time should I bring the
10 jury back?

11 MS. RATTAN: Well, you wanted to have the
12 instructions ready when they return?

13 THE COURT: Correct.

14 MS. RATTAN: How about 1:45?

15 MR. WHALEN: Yeah. I'm not going anywhere.

16 THE COURT: Okay. So do you want to go back and
17 just conditionally rest in front of the jury?

18 MR. WHALEN: Sure.

19 THE COURT: And then I'll let you make your motion
20 and everything like that.

21 MR. WHALEN: Yeah, that's fine.

22 THE COURT: So that they see that you are resting
23 so that I could explain to them --

24 MR. WHALEN: Yeah, that's fine.

25 THE COURT: -- what's happening next.

1 MR. WHALEN: Yeah.

2 THE COURT: Okay. Very good.

3 MS. RATTAN: Thank you.

4 (Sidebar conference concluded.)

5 THE COURT: So what says the defense?

6 MR. WHALEN: Your Honor, subject to some motions,
7 we would rest as well.

8 THE COURT: Okay. And I assume the government
9 will close?

10 MS. RATTAN: We close.

11 MR. WHALEN: Closing as well.

12 THE COURT: You conditionally close?

13 MR. WHALEN: Conditionally close, your Honor.

14 THE COURT: Okay. So, ladies and gentlemen, at
15 this time all of the evidence has been presented that
16 you're going to be hearing; however, I have to meet with
17 the attorneys to go over the Court's instructions and so
18 they have a right to look at those and -- we've already
19 been working on those, but I have to officially go over
20 that.

21 So we're going to take a little bit longer lunch,
22 and when we come back -- we'll come back at 1:45, and then
23 we'll hear the closing arguments of the attorneys. I have
24 given them an hour and 45 minutes each, whether they use it
25 all or not. So my goal will be to try to get all of the

1 closing arguments done today.

2 It may require spilling over into tomorrow morning
3 to give you have my instructions which could -- you'll get
4 a copy of the instructions, but they are quite lengthy
5 because of the number of counts in the case so that could
6 take me 45 minutes to an hour to read. So I don't know if
7 we'll get to that part. We'll get all of the arguments
8 done today, though.

9 So I just wanted to kind of, again, manage your
10 expectations about what's happening next so I hope you can
11 take a leisurely lunch while -- and we're going to be
12 working, so it's not like we're not working while you're
13 out doing that but --

14 So the one thing I'll just advise you again, as I
15 always do, please don't do any outside research. Don't
16 talk about the case among yourself or anyone else. Don't,
17 you know -- there may have been some press coverage of the
18 case, so please avoid reading anything and don't look at
19 any online posts about the case or anything if there's any
20 of that. And, of course, you guys can't do any online
21 posting because you can't talk to anyone about the case or
22 not.

23 So I give you those admonitions again, like I do
24 at every break, because now you've heard all the evidence
25 and you're like, okay, I'm ready to get going. But you

1 can't because you need to hear their closing arguments and
2 then my instructions on the law.

3 So, again, you can't talk to anyone about the
4 case; and the only thing you can tell people is, again,
5 that you are on a federal case in the Sherman federal
6 building.

7 So I'm going to go ahead and let you go. Go
8 upstairs and get your materials, whatever, your phones; and
9 then you're welcome to leave. And then just be back in the
10 juror room before 1:45 and we'll start back. When we come
11 back, we'll hear their closing arguments.

12 Have a great lunch. Thank you for your patience.

13 (The jury exits the courtroom, 12:07 p.m.)

14 THE COURT: Okay. Please be seated.

15 Mr. Whalen, if you want to go ahead and make your
16 motions.

17 MR. WHALEN: Your Honor, pursuant to Rule 29, we
18 would make a motion for a judgment of acquittal.

19 First, I'm going to say as it relates to all
20 counts, a global motion, because Fifth Circuit says we
21 should do it that way. But then they also say we should do
22 it specifically, so I'm going to go through each count
23 without waiving any element -- particular element as
24 necessary.

25 As it relates to Count 1, we would urge that there

1 was no evidence to prove the specific intent to defraud.
2 There is evidence in the record of the Promissory Note; and
3 so, therefore, the Promissory Note, in fact, could be
4 deemed a loan, which is not a misrepresentation and so,
5 therefore, we would ask for Rule 29 of acquittal on
6 Count 1.

7 As far as it relates to Counts 2, 4, 5, and 6, I
8 think they are related -- the argument is related to that.
9 The wire transfer that they have alleged, we would argue
10 that they have not proved beyond a reasonable doubt or a
11 rational juror could find that was in furtherance of the
12 scheme. The money was wired to himself and not back to the
13 investors.

14 I would agree that if these were wire transfers
15 going back to investors as potential payments, that would
16 be in furtherance of the scheme. But Counts 2, 4, 5, and 6
17 was money wired to himself and not back to investors so,
18 therefore, we would argue that it is not in furtherance of
19 any scheme to defraud.

20 The evidence clearly showed that the money was
21 part and parcel of the original amount invested. One was
22 \$20,000 from Denny Willmon which is by form of a check, and
23 the money flowed from there. And also 4, 5, and 6 is from
24 the original \$75,000 from Robert Greening.

25 We'd also argue, too, that 2, 4, 5, and 6 then

1 become multiplicitous because then you are punishing the
2 same conduct which was -- it goes back to the original
3 dollar amount or misrepresentation.

4 And so these wire transfers, based on the evidence
5 and the state of the record, were not in furtherance of any
6 scheme to defraud and convictions on those would result in
7 punishing the same conduct multiple times and so we would
8 ask for a judgment of acquittal on 2, 4, 5, and 6.

9 Counts 1 through 6, we would ask for a Rule 29
10 motion as it relates to the fact there is no evidence in
11 the record that there was a substantial effect on a
12 financial institution and move and make that motion.

13 As it relates to Counts 9 and 13, there is no
14 misrepresentation in any of those counts that Midland
15 National relied on the misrepresentation. They have
16 alleged a scheme to defraud. The question becomes --
17 purpose of a scheme to defraud has to be money or property
18 has to be the goal -- or actually obtained, and this was
19 just a change of beneficiary form.

20 In those counts, 9 through 13, there is nothing in
21 the record that those were misrepresentations. Clearly,
22 the evidence supports that as it relates to the change of
23 beneficiary, one of those phone calls, as testified to, was
24 made at Mr. Seegan's house; so it was Mr. Seegan's
25 representation to them to change the beneficiary. So it

1 was not a misrepresentation, not part of any scheme to
2 defraud.

3 Also, the question becomes, as it relates to -- I
4 know there was some testimony to suggest that if he was a
5 beneficiary of the trust, that would be a conflict of
6 interest and so that should have been disclosed. I think
7 Ms. Jacobson testified to something along those lines.

8 However, if you listen to the phone calls,
9 Mr. Ashley is on the phone asking for guidance on how to
10 fill out the form. There has been no evidence that he had
11 a duty to disclose; and they were looking for
12 beneficiaries, not trustees.

13 And so for Counts 9 and 13, I think they failed to
14 prove that there was a scheme or intent to defraud in the
15 fact that those wire communications contained any false
16 misrepresentations and were in furtherance of that scheme
17 and, therefore, he's entitled to an acquittal on 9 through
18 13.

19 As it relates to 14, the wire transfer of \$20,000,
20 there is no evidence in the record how that wire transfer
21 furthered any scheme as it related to Midland. There is
22 nothing about that transfer of a misrepresentation or
23 anything that that furthered the scheme as it relates to
24 Midland, and so we ask for a judgment of acquittal on 14.

25 Counts 15 and 16. 15 is the mailing of the letter

1 to Mr. Seegan's house. I think the testimony established
2 that the -- it was a matter of course that they would
3 automatically mail something, and that was not based on any
4 misrepresentation that they mailed it. It was part and
5 parcel of their standard operating procedure that they
6 would mail it; and they didn't rely on anything that was
7 material that had they known that, they wouldn't have used
8 the mails to send it.

9 And as well as the autopsy report in that there is
10 nothing about that that, one, is false about him requesting
11 it. It's a public record. And it was not used in any way
12 and also there is no tieback that that mailing in and of
13 itself furthered any type of scheme or plan to defraud
14 Midland National. And the question becomes, too, with
15 Midland National, as it relates to that, it's just a change
16 of beneficiary as it relates to that. So that's our
17 argument for that.

18 As it relates to Count 18, there is no specific
19 evidence that he carried a firearm in the Eastern District
20 and, therefore, venue is not appropriate.

21 There is the evidence that it affected interstate
22 commerce. I think the definition says that as relates to
23 an individual, it has to deplete the assets of a person
24 customarily engaged in interstate commerce. And I think
25 the evidence, despite their best attempts to say, well, he

1 owned a rental house -- he was not customarily engaged in
2 interstate commerce. And the fact he had investment
3 accounts with E*TRADE and Fidelity, in and of itself, is
4 not enough to effect interstate commerce; and there is not
5 sufficient evidence to satisfy that.

6 There is no evidence of a robbery. There is
7 evidence of a death. But this alleged \$20,000 is two days
8 afterwards; so there was no force used in order to take it
9 from Mr. Seegan. There was no property taken from
10 Mr. Seegan, so there is no evidence of a robbery.

11 And, obviously, there is -- as it relates to the
12 enhancement for murder, there will be a vigorous debate
13 about whether or not they have satisfied the territorial
14 jurisdiction of the United States. We believe it's an
15 element they had to satisfy, and they failed to do that as
16 well.

17 THE COURT: And what do you think they have to do
18 to establish that if that is an element?

19 MR. WHALEN: It is an element. I think they -- to
20 me, there is a -- "territorial jurisdiction" is defined and
21 there is a definition for that and so -- and our view is
22 that it's specific to the statute of what they have to
23 prove and we believe they would have to prove that it was
24 within the territorial jurisdiction of the United States.

25 THE COURT: And why do you think that's an

1 element?

2 MR. WHALEN: It's an element because the way the
3 924(j) is read -- it says "murder (as defined in 18 USC
4 1111)." It doesn't distinguish between (a) and (b). It
5 encumbrances the entire statute.

6 And so then if you look at the elements as defined
7 in 1111, the four elements to prove that offense is -- and
8 the Fifth Circuit pattern jury charge does include
9 territorial jurisdiction of the United States; and,
10 therefore, they are required to prove that as an element to
11 support the enhancement.

12 THE COURT: And do you have case law that supports
13 that that's an element?

14 MR. WHALEN: There is a -- I don't have case law
15 specifically that says that. I know that they have cited a
16 case that cited the Fourth Circuit, but the Fifth Circuit
17 has not ruled on it and has not decided on that. So it's
18 an open question in the circuit.

19 THE COURT: But hasn't the Fifth Circuit, in an
20 unpublished decision, addressed it saying it's not an
21 element?

22 MR. WHALEN: If they have, I'm not aware of it,
23 Judge.

24 THE COURT: Okay. Go ahead and continue.

25 MR. WHALEN: Okay. Because I've looked. I've

1 attempted to look for that.

2 Then as it relates to Count 19, there is no proof
3 of an attempted bank theft because there is no substantial
4 step. I think what was important that Mr. Hilson testified
5 to, as it related to the access at the house from that IP
6 address, simply there was an attempt to log on. But I
7 think what you heard from him later was in order to
8 effectuate the wire, there had to be a form filled out to
9 then notify Texas Capital Bank to effectuate the wire. And
10 that would be the substantial step, and so is there is no
11 attempt --

12 THE COURT: And, Mr. Whalen, on the
13 jurisdictional -- the Fifth Circuit has issued an
14 unpublished decision from 2001. It's 31 Fed. Appx. 156,
15 where in this case the defendant's name is -- (as read):
16 "Tatum also urges that 18 USC 1111 requires the government
17 to prove the killing in Count 2 occurred within the special
18 maritime or territorial jurisdiction of the United States.
19 He mistakenly reads Section 1111(b) to mandate that death
20 or life imprisonment can only be imposed when a murder
21 occurs within the special maritime or territorial
22 jurisdiction of the United States. Section 1111(b) merely
23 provides minimal sentences for murders that occur within
24 the special maritime or territorial jurisdiction of the
25 United States; and these minimum sentences are not part of

1 the definition of murder found in 18 USC, Section 1111(a)."

2 And it just says (as read): "Tatum's argument is
3 frivolous and requires no further analysis."

4 MR. WHALEN: Well, I'm still going to stand by my
5 argument, Judge.

6 THE COURT: I understand. I'm just telling you
7 that --

8 MR. WHALEN: Okay.

9 THE COURT: -- there is an --

10 MR. WHALEN: But I --

11 THE COURT: -- unpublished decision that --

12 MR. WHALEN: Right. And I think that -- I think
13 the other thing that's important about this question, about
14 924(j) as it relates to that, that was a decision from
15 2001. And I think if you look at the decision -- the
16 definition of 18 USC 1111, it does include "attempt"
17 language in there and -- so it can be the completed offense
18 or the attempted. And so then you have 924(j) and then you
19 have the Supreme Court's ruling in *Taylor* that you can't
20 have a 924(c) conviction for an attempted crime of
21 violence.

22 And so you have "attempt" language in the 924(j)
23 language; so, therefore, we would object to the inclusion
24 of that under *Taylor* because based on their reasoning, you
25 can't have enhanced punishment for the attempt and,

1 therefore, that's included in the definition.

2 THE COURT: Okay. Go ahead.

3 MR. WHALEN: And so we would object on that.

4 As it relates to Count 19, since there is no
5 attempt, the venue -- it occurred in the Northern District,
6 but there was no evidence to support it was taken or
7 stolen. Actually, there is evidence to support that the
8 potentially Ms. Seegan consented to it and so venue would
9 be improper.

10 And also we would then object that the special
11 issue about injury or death or assault should not be
12 submitted to the jury because there is no evidence that at
13 the time of taking, that there was any injury, assault, or
14 death that resulted and, therefore, it would be improper to
15 submit that special issue to the jury as relates to that.

16 Also, I think from a -- I think it's important,
17 too, because when you look at that definition, it's about
18 attempting to flee, attempting to conceal and those types
19 of things, that the act has to then have been committed;
20 and there is no evidence in the record to support that.

21 And I think it's important, too, because I think
22 it gives us some analysis on what the intent was of (b) --
23 2113(b) was versus (a) where (a) traditionally is the bank
24 robbery, you have to enter the bank and things of that
25 nature.

1 But, too, how was the bank involved? And there is
2 no testimony in the record that Capital Bank didn't give
3 consent or is the -- for lack of a better word -- the
4 victim of a bank theft. I don't think there is any
5 evidence in the record to support that.

6 And then as far as it relates to Count 20, there
7 is no material misrepresentation in the Count 20 and there
8 is no specific intent to defraud. The testimony clearly
9 indicated that agents know how to write policies in order
10 to get them accepted and so, therefore, there is no intent
11 to defraud.

12 But I think also the object of it was to get an
13 insurance policy and that's not money or property and,
14 therefore, there is no -- which has to be the goal of any
15 type of wire fraud -- any fraud scheme is to obtain money
16 or property. And getting a life insurance policy would
17 not, in my view, count as money or property for Count 20.

18 And then also, Judge, we would also then -- well,
19 we'll stop there and that's the -- our Rule 29 motion, your
20 Honor.

21 THE COURT: Okay. Any response?

22 MS. RATTAN: Any specific issues the Court wants
23 me to focus on? But I would just say globally all of those
24 are arguments that would be presented to a jury on is this
25 preponderance of the evidence on venue, is it beyond a

1 reasonable doubt on the other elements. But in terms of
2 Rule 29, the elements have been established.

3 The Counts 1 through 6 clearly are going to be a
4 scheme and a fraud on the individual investors. And the
5 remaining counts, how could there be more of a fraud than
6 to lie to an insurance company and kill one of their
7 insureds to try to get the money? I mean, I can't imagine
8 a bigger fraud. It is fraud. It's wire fraud. It's bank
9 fraud. It's mail fraud. It's all kinds of fraud.

10 And certainly the other bank theft, I mean, I've
11 heard the arguments. Those are the jury arguments, not
12 Rule 29 arguments. This should go to a jury.

13 THE COURT: Okay. I agree. I'll overrule the
14 defendant's motion. We'll let the jury decide.

15 What else?

16 MR. WHALEN: Yes, your Honor. We had filed our
17 motion as it related to an attempt or actual offense in
18 that the government would be -- should be required to elect
19 whether they are going on an attempt or a completed
20 offense.

21 It would appear to me the way they used the
22 exhibit, the last exhibit with Rennie to establish
23 interstate and venue, they specifically put "wire fraud"
24 and delineated between Count 20 as "attempted wire fraud."

25 So it appeared to me that the state of the record

1 that you have in front of you with their exhibit, that
2 attempted actions for the -- except for Count 20 should all
3 be wire fraud counts and they shouldn't get any "attempt"
4 language.

5 THE COURT: Ms. Rattan?

6 MS. RATTAN: I think it's appropriate to charge
7 the jury on the attempt. And the Court has addressed this
8 issue but with the unanimity of theory instruction.

9 THE COURT: Okay. Yeah, I agree. And we can talk
10 more when we go through it here in the charge conference to
11 make sure we're all on the same page.

12 What else?

13 MR. WHALEN: That is all, your Honor, at this
14 time.

15 THE COURT: Okay. And then anything from the
16 government?

17 MS. RATTAN: No, your Honor.

18 THE COURT: Okay. And then if you want to take
19 just 5 minutes and then we'll meet in chambers to have our
20 informal charge conference. And then if we need to, we'll
21 come back into the -- we'll just maybe come back before
22 1:45 to put everything on the record, any objections, maybe
23 start 5 minutes before that. And then -- and then you'll
24 just need to give times to Ms. Conrad to see if you want
25 warnings.

1 And then, Mr. Whalen -- well, that's all. So if
2 y'all just need 5 minutes to maybe use the facilities, and
3 then I will see you in chambers and we can discuss the
4 charge.

5 (Recess, 12:24 p.m. to 1:45 p.m.)

6 (Open court, defendant present, jury not present.)

7 THE COURT: You can be seated.

8 Objections to the charge by the government?

9 MS. RATTAN: No, your Honor.

10 THE COURT: Objections to the charge from defense?

11 MR. WHALEN: Yes, your Honor. One moment.

12 THE COURT: Use your mic, Mr. Whalen.

13 MR. WHALEN: Your Honor, we would object to the
14 jury charge as proposed.

15 We would renew our Rule 29 motion as to each of
16 the counts set forth in the jury charge.

17 We will object to the failure of the Court making
18 the government elect between a completed offense or
19 attempted offense. The Fifth Circuit has said that the
20 better course of action is to make them elect versus using
21 unanimity of theory instruction, and so we would object to
22 the charge of submitting both to the jury.

23 We would object to -- well, that just renews our
24 Rule 29 motion, the mail fraud, attempted mail fraud and
25 the completed act of mail fraud. We would object to the

1 jury being allowed to consider either one.

2 As it relates to Count 18, we would object to
3 Count 18 in that the government has failed and no rational
4 jury could find beyond a reasonable doubt that this
5 offense -- that, one, a robbery occurred or, two, that it
6 affected interstate commerce; and we would object to that.

7 We would object to the special issue that the
8 Court is not including a -- that it occurred in the
9 territorial jurisdiction of the United States. We would
10 object to that portion of the charge.

11 As it relates to bank theft and attempted bank
12 theft, we would object that they have to elect between a
13 completed offense and attempt since they pled both. It's
14 contrary to Fifth Circuit preference.

15 We would object to the special verdict as it
16 relates to causing assault or death because it has to be
17 contemporaneous with the taking and there is no evidence in
18 the record that that occurred.

19 We would object to the charge as well as the
20 verdict form as relates to affecting a financial
21 institution. There is no evidence in the record that a
22 rational jury could find that it affected a financial
23 institution.

24 We would also object to the special issue in the
25 verdict form as it relates to Count 18 because, once again,

1 there is no inclusion of territorial jurisdiction and that
2 it affected interstate commerce by robbery.

3 And we would object to 18(a) as a special issue.
4 I think the only special issue they pled was whether it was
5 under (j), not simply causing the death through the use of
6 a firearm, because they have, I think, elected in their
7 jury charge to only say "carry or possess."

8 And so then 18(a) says "in the course of violating
9 18 USC 924(c)(1), cause of death of a person through the
10 use of a firearm." They've elected not to proceed on a use
11 of a firearm, so it would be improper to have 18(a) as a
12 special issue.

13 THE COURT: Ms. Rattan, I don't need a response
14 other than the last issue. Is there some issue with -- I'm
15 going to overrule everything else.

16 On this issue of 18(a)?

17 MS. RATTAN: Well, this is the first time we've
18 heard this issue.

19 THE COURT: I understand. It's the first time
20 I've heard it, too, so I --

21 MS. RATTAN: Yes.

22 MR. WHALEN: Well, I didn't believe it would be in
23 there because they've only pled it, so I didn't
24 initially -- I remember it was in 19, but I didn't think it
25 was in 18. So I apologize, but I don't think I recalled

1 seeing it in 18.

2 MS. RATTAN: I would just have to check it against
3 the statute and the Indictment.

4 Well, of course, we're looking at it because we
5 want to get it right. But it looks like, looking at
6 Count 18 of the Indictment, it's been alleged both ways.
7 If you look at the last two lines of Count 18, which is on
8 page 20 (as read): "in furtherance of the said crime of
9 violence, the defendant's use of said firearm caused the
10 death of a person which was murder as defined under
11 18-1111."

12 So the first half --

13 THE COURT: Which is exactly how we -- we've
14 broken it up in two questions but --

15 MS. RATTAN: Yes, so --

16 THE COURT: Okay. I just wanted to make sure.
17 That was the first I'd heard of it so --

18 Mr. Whalen, they have alleged that.

19 MR. WHALEN: But the 924(c) -- what the jury is
20 going to decide on the 924(c) is whether he possessed or
21 carried.

22 MS. RATTAN: And that's how it's charged.

23 THE COURT: Right.

24 MS. RATTAN: So then we'd have to look at the
25 statute to see whether we charged it in a limiting way.

1 I think the instructions track the Indictment.

2 It's just the question of is the statute different.

3 THE COURT: Okay. Mr. Combs, are you pulling that
4 up?

5 MR. COMBS: I am, your Honor.

6 THE COURT: I mean, the statute provides for
7 possess or carrying. I mean, the statute provides for
8 every scenario, basically, under 924(c)(1). I don't see a
9 problem.

10 MS. RATTAN: We think it's correct.

11 THE COURT: I mean, the 924(c)(1) can be
12 possession or carrying; and that doesn't preclude the
13 enhancement. So, Mr. Whalen, I'm still not -- I guess I'm
14 not sure your objection.

15 MR. WHALEN: Well, I think it's one issue and not
16 two. I think it's one special issue and not two special
17 issues.

18 THE COURT: Well --

19 MR. WHALEN: But if we want to leave it that way,
20 that's fine. I object to it and --

21 THE COURT: Right, but what's the objection? I
22 mean, the fact --

23 MR. WHALEN: The objection is I don't -- I think
24 it's a misstatement of how the enhancement should be
25 applied, but --

1 THE COURT: Ms. Rattan, I don't see an issue with
2 that. I mean, I'll make sure the government also agrees.

3 MS. RATTAN: We agree.

4 THE COURT: Okay. I will overrule the objections.

5 MR. WHALEN: And I will conclude my objections to
6 the jury charge, your Honor.

7 THE COURT: Very good. Let's bring the jury in.

8 (The jury enters the courtroom, 1:54 p.m.)

9 THE COURT: Please be seated.

10 Okay. Ladies and gentlemen, we're going to go
11 ahead and hear closing arguments. So, again, what the
12 lawyers say is not evidence; but it's their thoughts and
13 summation of what the evidence has shown or in the shown or
14 any inferences they draw from that.

15 But pay attention to both sides of the arguments,
16 and we'll -- again the government, who has the burden of
17 proof, gets to go first. Then the defense goes, and then
18 the government has the ability to come back in rebuttal.

19 Ms. Rattan.

20 MS. RATTAN: Thank you, your Honor. May it please
21 the Court, members of the jury.

22 We'll end where we started, and that is with Keith
23 Todd Ashley. You know from the evidence now what happened.
24 There were 5.4 million reasons why this man wanted James
25 Seegan dead. And he did it. He killed him.

1 There's been a lot of evidence. It took over a
2 week to put it on, and I saw you all listening carefully to
3 all the evidence. And after the arguments, Judge Mazzant
4 is going to review with you what the law is and what his
5 instructions to you are in this case. But what he's going
6 to tell you is to deliberate and use common sense and apply
7 common sense to the evidence in this case.

8 And I know you applied common sense and you
9 listened carefully as the evidence came in, and I don't
10 know that I have to tell you what happened. We talked last
11 Tuesday in opening statement about what happened. It was
12 stealing and killing, and that's what he did. That's what
13 the evidence has shown, and that's what you've heard.

14 This morning through Agent Rennie's testimony,
15 what we tried to put on through the interstate nexus and
16 the venue testimony were the details that would help speed
17 along your deliberations so that you could easily see how
18 the venue was there and how the interstate nexus was
19 established on each one of the counts.

20 But really -- that's the technical legal issues
21 that we're dealing with, but the reality of the facts of
22 the case is what we can't ignore. He stole from these
23 people, and he killed Mr. Seegan.

24 And it's unspeakably sad; but the evidence in this
25 case supports the charges, each one of the charges that

1 this defendant faces. And we'll ask you, of course, to
2 carefully review the evidence as you have throughout the
3 trial but find him guilty of each one of the charges.

4 And as you deliberate the evidence, what you have
5 to think about is what did happen on February 19th of 2020.
6 What we have is the very, very strong, irrefutable
7 circumstantial evidence of what happened.

8 What we know is on February 19th of 2019, James
9 Seegan had in his iCalendar "Keith blood." Nobody's
10 refuted that that was in his calendar. Why would it be in
11 his calendar?

12 Well, what we know is that Mr. Seegan was in the
13 process of changing the beneficiary on his life insurance
14 policy to his trust. Midland life came and testified you
15 don't need another blood draw when you change the
16 beneficiary. But does Mr. Seegan know that? Do any of us
17 know that necessarily? He trusts Keith Ashley. Keith
18 Ashley tells him we have to do a blood draw. So he puts it
19 on his calendar, "Keith, 9:00 a.m., blood."

20 But as I said, before you ever get to
21 February 19th of 2020, there is a whole lot going on. And
22 as you read the instructions and as Judge Mazzant gives
23 them to you, you'll see that the government doesn't have to
24 prove motive. It's not required. But isn't this case
25 really all about the motive? Isn't it about that about why

1 he did it, as you saw all of those charts that Matt Wylie
2 the CPA with the FBI prepared?

3 We know you're stealing. We know you took
4 everybody's money. It's the motive in this case. That's
5 why you killed him, so that you could get control over the
6 what was going to be \$5.4 million. But it was the
7 \$2 million that he didn't mention to Dida when he went over
8 there to comfort her. "You're going to get about 3.4,
9 3.5 million and maybe more."

10 Something's missing. It's the \$2 million that was
11 going to go into the trust that he was going to control.

12 So before you ever get to this date right here,
13 the iCalendar, 9:00 a.m., the date literally written in
14 blood, before you ever get here, you have to consider
15 everything that went on before.

16 There are two critical things. It's right here,
17 April 8th and April 16th, when Ashley becomes the
18 independent executor of James Seegan's will and trust. The
19 plot is in place.

20 Because what's going to happen if James Seegan
21 dies? You saw the documents. Who gets the power, the
22 power and control over the estate? He's not even going to
23 have to pretend that there is a UIT investment anymore. He
24 doesn't have to talk about Parkland Securities mumbo-jumbo.
25 He's in control of the entire estate the minute James

1 Seegan dies.

2 So right here, when James Seegan signs this
3 document saying that he agrees to the defendant being the
4 executor of his trust, he's arguably signing his death
5 warrant.

6 He trusts him. He thinks he'll do the right
7 thing. He doesn't even know that he's been stealing his
8 money all these years and spending it at the casinos.

9 And what consummates it? What makes -- what seals
10 the deal? This right here. Remember, Keith Ashley's
11 calling Midland life and he's calling them and calling
12 them. He wants to make sure that this is in place. He
13 wants to be positive that the beneficiary of the \$2 million
14 has been changed to the trust that he controls.

15 So once he becomes the independent executor and
16 then the paperwork is in place making the \$2 million go to
17 the trust, he's in charge. He is in charge. The only
18 thing left is to get rid of James Seegan. Then he's going
19 to be in control of everything.

20 The other thing that killing James Seegan does is,
21 ugh, those monthly payments that he's having to make to him
22 to keep the Ponzi scheme alive, the fake payments that he
23 has to keep sending back to him. That's money every month
24 that he has to send. Once he kills him, he doesn't have to
25 pay those any longer either. So here and here, that's the

1 motive, to get the money.

2 And, again, you know what he does with money. He
3 takes people's money and he spends it at the casino, he
4 spends it on his mortgage, he spends it on the BMW, all of
5 those things that you saw Matt Wylie testify to, cash for
6 him. Those are the things that he does; and that's what
7 he's going to do with Dida's 3.4 plus the 2, \$5.4 million.

8 You saw her. She seems vulnerable. He could take
9 advantage of a lawyer, Robert Greening. He took his
10 \$75,000, an attorney.

11 He took advantage of James Seegan. You saw his
12 records. He's careful and meticulous.

13 He saw Dida and he was like, "Pfft, are you
14 kidding me? She's going to be a pushover. I will be in
15 charge of the \$5.4 million."

16 That's what he thought, but he was wrong. Because
17 when her husband died, she wasn't having it. She said,
18 "That's not right. He doesn't have needles. He doesn't
19 have a firearm. That's not his right hand. Something's
20 not right about this situation." And she hired a lawyer,
21 and she said this situation is not right, not having it.

22 Carrollton Police Department investigated. He
23 almost got away with it. You saw the first report from the
24 medical examiner's office. What did it say? Suicide.

25 He ordered that report secretly through Paul

1 Villarreal, had Paul Villarreal have it sent to his house.
2 If you're on the up and up, why are you doing that? It
3 doesn't make sense at all. It's because he wanted to know
4 do they know what I did?

5 Because as you know from Dr. Stacey Hail's
6 testimony, etomidate is a pretty good drug to accomplish
7 this. Fast-in/fast-out. He thought maybe it would have
8 not shown up in a toxicology report. He thought, wow,
9 they're not going to have an instrument, a test to test the
10 blood for that.

11 Turns out SWIFS, Southwestern Institute of
12 Forensic Sciences, is one of the only places in the country
13 that has the QTOF instrument, the QTOF machine. And they
14 tested for it, and it showed etomidate.

15 And when you talk about etomidate, whose
16 fingerprints are all over the fact that there's etomidate
17 in his blood?

18 There's no fingerprints on anything in the office.
19 And even if there were, he goes there. He has legitimate
20 business with Mr. Seegan, so what does it matter if his
21 fingerprints are there?

22 No, the fingerprint in this case is the etomidate.
23 Track the etomidate. We know in 2004 he was trained on
24 etomidate. We know in December of 2017 he checked
25 etomidate out of the Pyxis machine at the hospital.

1 Was this the etomidate that he used? Who knows.
2 But you heard from the head nurse at the hospital what
3 their controls were and what her concern was about how
4 somebody could easily access etomidate. She even told you,
5 "I did an experiment myself. I slipped it in my pocket."
6 Six months went by. Today, as she testified in court,
7 nobody had ever called her on it or said, "What happened to
8 the etomidate?"

9 What happened to the etomidate? Where did he get
10 the etomidate? City Hospital. And he knew just how to use
11 the etomidate.

12 So he tells James Seegan that they're going to
13 draw blood. He's going to draw blood from him. Perfect
14 setup. He doesn't draw blood. What he does is he has
15 James Seegan sit down. And you saw the photo. Here it is
16 right here.

17 Dida Seegan says, "My husband never sat in the
18 room like that. That's not how he would sit in his
19 office."

20 And it makes perfect sense. When Jay Combs was
21 questioning Stacey Hail, he sat back down here on the
22 bench. If you're going to hold out your arm -- and then
23 you see the little shower stool right there underneath
24 where Keith Ashley would have pulled it out and acted like
25 he was going to draw blood from Mr. Seegan.

1 He doesn't draw blood. Instead, he puts in,
2 pushes in etomidate. And what do you know from Dr. Hail,
3 the toxicologist? She tells you you're going to be out
4 fast.

5 Once he's out, what does Keith Ashley do? He
6 shoots him in the head. Where did that firearm come from?
7 The last known sale, last documented transfer of the
8 firearm was within 5 miles of Keith Ashley's house.
9 Coincidence? No. It's a crime. It's murder. The firearm
10 came from Keith Ashley.

11 And you saw on the illustration this morning he's
12 been charged in Count 19 with carrying and possessing a
13 firearm in furtherance of a crime of violence, and the
14 crime of violence is the robbery. He carried that firearm,
15 he possessed that firearm as he left his house in the
16 Eastern District of Texas, went to the brewery, and came
17 down and crossed the line into Carrollton and went to James
18 Seegan's house.

19 So here's what you have. He says, "We're going to
20 draw your blood." Mr. Seegan sits down in the chair. He's
21 gonna put his arm right there on the table by the
22 microscope that's covered.

23 Then if you look at the top right corner, that's a
24 photograph of syringes that were found when law enforcement
25 searched Keith Ashley's house.

1 And then at the far right section of the screen,
2 you see a sample vial of etomidate. That's what it looks
3 like. That's what he would have gotten out of the Pyxis
4 machine on December 17th of 2019.

5 And who had access continually to protective gear?

6 You saw that backpack that he carried into the
7 house, and you heard law enforcement say that the
8 intelligence and information they had was that Keith Ashley
9 always carried a firearm in the backpack. And when they
10 searched his house and found the backpack, what, in fact,
11 was in it? A firearm.

12 So doesn't it make sense, when you use common
13 sense, that what he had in the bag was a firearm that he
14 ultimately placed in James Seegan's hand? He used the
15 etomidate because Mr. Seegan thought he was there to get
16 blood and he used the etomidate, knocked him out, and shot
17 him in the head with the firearm.

18 Dida Seegan told you her husband wouldn't even
19 allow toy firearms in the house. They were not a firearm
20 family, yet a firearm ends up in her husband's wrong hand
21 in a position where it looks like someone would sit to give
22 blood, with a little stool out beside it.

23 What else do you know? Who's googling the Nest
24 camera? Who's Safari searching the Nest camera
25 continually? This defendant, because that's how he got

1 caught.

2 The etomidate may be the fingerprint, but he got
3 caught by the Nest camera. Will the Nest camera detect
4 sound if there is no motion? We know from the evidence the
5 answer is yes, it will. Yes, it did.

6 And what does the evidence show? The evidence
7 shows Ashley arriving at the house with the backpack at
8 9:31 a.m. We know he was supposed to be there at 9:00 to
9 do the blood draw. He arrives there at 9:31 a.m.

10 Then FBI and Carrollton Police Department have
11 analyzed James Seegan's phone, and it says that the last
12 step logged -- it never moved again -- the last step logged
13 on James Seegan's phone was 9:33 a.m.

14 9:42 a.m., James Seegan takes his final phone call
15 of his life.

16 And then at 10:15 a.m., the Google Nest camera
17 activates, makes a -- it records a sound, the popping
18 sound.

19 And remember the Carrollton Police Department?
20 The only way they were able to re-create that popping
21 sound -- it wasn't through slamming a door, dropping a
22 book, anything like that, not slamming a car door. They
23 weren't able to re-create it except through one thing, and
24 that was firing a firearm that matched the one that was in
25 James Seegan's wrong hand.

1 So it was at 10:15 a.m. when this defendant, who
2 was going to gain all the power over James Seegan's estate,
3 executed him, shot him in the head.

4 Then at 10:17 a.m., after he's shot in the head, a
5 document is printed at James Seegan's home. A document.

6 Now, there's a alleged, purported suicide note
7 that's left. And you see a picture of it right here, and
8 let's look at it right now. It's interesting because when
9 Keith Ashley's phone is searched, there's a suicide note
10 that he's written in his phone as well. And there are
11 similarities in the documents, and Detective Bonner went
12 over these with you.

13 But first you have to consider, before you even
14 look at the similarities, this note. What kind of suicide
15 note is that? It's written, typed out. People who respond
16 to suicides all the time, Captain King and the other law
17 enforcement, said this is not common. This is not usually
18 what they see.

19 "Dida, I have been struggling for a while." He's
20 running his Roomba that morning. He's doing the laundry.
21 He's buying things for his son. He's excited about a new
22 pair of tennis shoes. He's going to give him a computer.
23 He's going to kill himself that morning?

24 "I have been struggling for a while. My dad dies
25 years ago and my brother killed himself last year. My best

1 friend died, that I found dead in his house. I want you to
2 love Josh with all your heart. I can not take this pain
3 anymore. My last friend in the world Keith Ashley will
4 help you with" -- and then Keith Ashley's phone number. "I
5 love you."

6 He put his own name and phone number in the
7 suicide note because he's a swindler. Everybody trusts
8 him. Everybody believes him. He swindled a lawyer out of
9 \$75,000. Unbelievable. That's how confident he is.

10 He says, "Dida, call Keith Ashley. He'll help
11 you," because Keith Ashley wants to go right over there and
12 get his hands right into the money, because it's
13 5.4 million reasons why he committed this murder.

14 But that's not it. When you look at this
15 exhibit -- and this note is the one that was taken out of
16 the defendant's phone -- you see similarities in the
17 writing style. Kyler and Kade, no comma. Dida, no comma.

18 "Can not," there is a space. That's not how you
19 write it. It's "cannot." It's one word.

20 Oh, and look. The same mistake over here, "can
21 not." Does it in two words.

22 The phrase that he starts with, "I have been,"
23 you've got it right here in the note to Dida, "I have
24 been." Oh, and that's how he starts out over here, "I have
25 been."

1 The other thing that he does is there is a space
2 and then the punctuation. A space and then the
3 punctuation.

4 The similarities in the fake suicide note and the
5 suicide note that the defendant had on his phone, it's
6 another fingerprint.

7 You've got the etomidate, and you've got the fake
8 suicide note. They're just too similar. It doesn't make
9 sense.

10 So then going back to what happened on
11 February 19th of 2020. You've got the pop in the garage,
12 and then you've got the document printed at James Seegan's
13 house at 10:17 a.m. So this is when he killed him. The
14 only way they could re-create that sound was with a
15 firearm.

16 And remember he was googling "time of death,"
17 "time of death calculator," "can they tell time of death."
18 Very concerned about that.

19 And the document prints, and then who leaves the
20 house? He leaves.

21 So all these things happened right here while he's
22 still in the house.

23 Then he starts the fake calling and the fake
24 texts. "Hey, buddy, hope you're okay." "Hey, guy. What's
25 going on?"

1 Well, he's already sent these fake texts to him
2 when he comes back to the house to, I guess, check on him.
3 But you see the video, the Nest video. The first time he
4 comes up to the door, it looks like someone is greeting him
5 and he says hello.

6 The second time he comes up to the door, boom, he
7 knows that James Seegan is dead. He walks right into the
8 house.

9 Let's see. He leaves here for the second time --
10 so he leaves a second time right here.

11 Then what does he do? Fake, fake, fake contacts;
12 and then Dida comes home and finds her husband.

13 Does he waste any time at all letting the
14 insurance company know? Very next day he's on the phone.

15 And does he waste any time completing the robbery?
16 Because really he robs him the minute he takes his life
17 because the minute he takes James Seegan's life, who's in
18 charge of the estate? Who's the executor of the estate?
19 Right then, right there, the minute James Seegan is dead --
20 and that's what the paperwork says. If James Seegan dies,
21 then Keith Ashley controls, has the power, can control all
22 of James Seegan's money. And he thinks he can run
23 roughshod over Dida because he's run roughshod over
24 everybody else.

25 So he doesn't waste any time. He calls and he

1 says, "Oh, he passed away last night."

2 Then he makes a second call and he says, "Can you
3 lock the account down? I want to make sure there's not any
4 hanky-panky."

5 Well, the hanky-panky is him. He wants to make
6 sure none of the family can access the account and figure
7 out there is more to the life insurance than what they may
8 think. There's more than just the \$400,000 policy.
9 There's also the \$2 million policy.

10 And James Seegan isn't dead 24 hours, but what is
11 Keith Ashley doing? Trying to get into his account. He
12 makes the first attempt from his own house, his estate,
13 really, there in Lucas. He makes the first attempt from
14 his estate there in Lucas. Then -- can't get in, can't get
15 authenticated.

16 So what does he do? He drives down to Dida
17 Seegan's house. The nerve. He's going to steal \$20,000
18 from her when her husband hasn't been dead for but 24, 36
19 hours? Oh, yes. He goes in there and their son Josh.
20 Helps him get into the phone and he uses the phone --
21 because you know from the IP address that Arthur Hilson
22 from Texas Capital testified to -- he uses that IP address
23 there at the house to complete the \$20,000 transfer.

24 Does one penny of that \$20,000 that he took go to
25 Dida Seegan? Does it go to crime scene cleanup? Does it

1 go to funeral expenses? Does it go to anything to help
2 Dida? You saw the chart. It went to two prior investors
3 who he owed money as part of the Ponzi scheme and then, oh,
4 by the way, all the rest to him.

5 Who does that? Somebody who is overcome with
6 greed, somebody who is addicted to gambling, somebody who
7 is obsessed with getting money. That's what happened here.
8 Greed, addiction, obsession, 5.4 million reasons for
9 killing James Seegan. Stealing and killing, that's what
10 we've seen here.

11 Calls Midland life. Steals the money. Now he's a
12 little stressed. People are looking at him. He wants to
13 get ahold of the medical examiner's report. What is in the
14 medical examiner's report? He wants to find out.

15 Well, first time he thinks he got away with it
16 because it says "suicide." But there is that etomidate
17 problem and the QTOF, so he's googling "QTOF." What's
18 QTOF? What did they use? How did they catch me? How did
19 they find my fingerprint? How do they know that I'm the
20 etomidate guy? He's googling to try to figure it out.

21 Medical examiner mails James Seegan autopsy to
22 Paul Villarreal. If you're Keith Ashley and you're really
23 trying to help the family, you're trying to help Dida
24 resolve her estate, why do you have to have some guy at the
25 brewery order the autopsy?

1 Why do you even need the autopsy? You don't. You
2 get a Certificate of Death, you submit it in probate, and
3 things can be handled. You don't need to know what the
4 autopsy says. We all know he died. He's dead of a gunshot
5 wound. Lead poisoning. Gunshot wound to the head. You
6 don't need the autopsy. He wants to find out if they know
7 about his etomidate, and they do.

8 So he secretly gets Paul Villarreal to mail the
9 autopsy report to him, and he sees the toxicology.

10 Then what did he say about the Google searches?
11 Can I get manslaughter? What's the statute for theft? Can
12 I get probation for killing somebody? All of these things
13 that he's googling, why google those things? Because he
14 did it. He knows what happened.

15 This pop right here was what the police
16 re-created. It was a gunshot wound to his head.

17 This is a fake suicide note.

18 The etomidate in the blood is the fingerprint of
19 this defendant, Keith Ashley.

20 So we've walked through pretty closely the counts
21 in Agent Rennie's testimony this morning, but what I've
22 done is gone through each one of the counts -- and we're
23 not going to belabor it, but I just wanted to show you each
24 one of the counts.

25 As you know, the defendant has been charged in

1 Counts 1 through 6 with wire fraud. The wire fraud is
2 stealing from the Ponzi scheme victims.

3 And then the 9 through 14 and the 20, that relates
4 to the fraudulent things that he did in relation to Midland
5 life, trying to get the beneficiary changed.

6 Then Count 20 is this right here. Kind of eerie.
7 Paul Villarreal has since died from complications due to
8 his diabetes. But when you find out that the defendant
9 took out a life insurance policy back here in 2018 on
10 somebody who worked at his brewery making beer, who before
11 he came to work for the brewery picked up cans for a
12 living -- why would you take out a \$400,000 life insurance
13 policy on Paul Villarreal and say that you're his
14 stepbrother when you're not? Why would you do that? What
15 are you thinking?

16 Well, we know what happened here. Paul Villarreal
17 didn't get approved because he had diabetes. Maybe that
18 was lucky. Maybe that was fortunate for him, because it
19 sure looks like the defendant had a plan in place and Paul
20 Villarreal might have been an intended victim.

21 Whether he was or wasn't, this sending in the
22 policy for Paul Villarreal was fraud and it was a lie
23 because he lied about his insurable interest. He's not his
24 stepbrother.

25 The charges of mail fraud in Counts 15 and 16 is

1 using the mails and lying. He used the mail and he lied
2 when this letter was mailed confirming the beneficiary in
3 James Seegan's trust to Ashley, and he used the mail down
4 here when he had Paul Villarreal order the medical
5 examiner's report.

6 Carrying a firearm in furtherance of a crime of
7 violence. You saw that this morning. You saw the
8 animation where for 25 miles he drove all the way down to
9 James Seegan's house. And, again, where did that firearm
10 come from? It came from Keith Ashley's home, or it came
11 from the brewery. And we know both of those are located in
12 the Eastern District of Texas. He dropped down about
13 2.6 miles into the Northern District of Texas, but you bet
14 he carried that firearm in furtherance of his plan to rob
15 and kill and steal from James Seegan.

16 And, finally, Count 19 is the bank theft; and
17 we've reviewed that here. This is charged as a wire fraud
18 because he was using the wire to steal, but it's also
19 charged as a bank theft.

20 So this is Count 1, the money he stole from James
21 Seegan. Now, I don't know what the defense is going to
22 argue in closing; but James Seegan isn't here to tell you,
23 "He stole my money."

24 So is there going to be some kind of argument that
25 "James really gave me that money and wanted me to have it"?

1 Well, that's unmitigated gall, to kill someone and then
2 say, "You can't prove that I stole their money from them
3 because they're not here to tell you I stole it."

4 But what we have is an email between the two of
5 them where they're talking about investing \$150,000, it's
6 going to be a 3 percent grouping on the first contract.

7 And then you have the \$150,000 wire that goes from
8 James Seegan's bank account to KBKK, the defendant's bank
9 account.

10 And the theft. What does he do with the money?
11 That's how you know that he stole it, because there is no
12 investment ever. He doesn't invest anything except in
13 himself, his own personal gain.

14 The money goes back to James Seegan. Remember,
15 the first step in a Ponzi scheme is to take a portion of
16 the victims' money and feed it back to them so they
17 immediately think that they're getting a benefit. It goes
18 to Leonid, who's one of the Ponzi scheme victims, cash,
19 casinos, mortgage. He steals it all.

20 Here's the Ponzi scheme that we talked about in
21 opening statement. It's a classic Ponzi scheme. There's
22 no real investment -- and you know that from Matt Wylie's
23 analysis -- and then the investment money is used to pay
24 other investors.

25 So here's who the investors were: Robert

1 Greening, James Seegan, Leonid Shteyngart, and Denny
2 Willmon. And you saw, as the money was stolen, some of it
3 would go back to them. He even had set up auto pays out of
4 his own account so that he wouldn't miss months with the
5 victims. Taking stolen money and paying other people, it's
6 a classic Ponzi scheme.

7 Here's the 150,000 -- rather, the email that I
8 quoted in that previous slide where they're emailing back
9 and forth about the money.

10 Here's the actual wire transfer that takes place.
11 It goes from Mr. Seegan's account, \$150,000, to the
12 defendant's account, KBKK at Branch Banking and Trust.

13 What do you say when a CPA and a forensic
14 accountant working for the FBI reviews your bank account?
15 And this is what happened to the money. \$532 goes back to
16 James Seegan. Leonid Shteyngart gets his Ponzi payment of
17 \$1,200. You've got \$25,000 of James Seegan's money going
18 to casinos. The defendant pays \$6,800 on his own mortgage.
19 \$30,000 of it is cash in his own pocket.

20 Stealing and ultimately killing, that's Count 1.

21 This is another amount of money. It was \$120,000
22 that the defendant took from James Seegan. And you see
23 what he's doing, spending it at casinos; paying off the
24 other victims; \$7,000 in cash; \$7,000 on his personal
25 mortgage.

1 Then this morning we went over another instance.
2 Matt Wylie testified again and said in April of 2019 there
3 was a \$225,000 wire that went from James Seegan to Keith
4 Ashley. And you saw he's going to Golden Nugget, he's
5 going to Choctaw, he's stealing their money.

6 Count 2. Count 2 relates to the money that Denny
7 Willmon provided. And remember there were the emails.
8 "Just wanted to update you on the KBKK business." What's
9 happening? The defendant's missing payments. Why?
10 Because he's short on money all the time because he's
11 gambling at Choctaw and Golden Nugget.

12 And Mr. Willmon is emailing him -- remember
13 Mr. Willmon? He was the first witness in the trial. He's
14 an older man. He's been married over 50 years, has two
15 daughters. The defendant was stealing his money.

16 What happened to that money?

17 Okay. Here's the check that he sent Mr. Ashley.

18 Here's the email about, hey, where is my money?

19 And then here is the forensic accountant's
20 analysis. He stole it.

21 A small portion of it went back to Mr. Willmon to
22 make Mr. Willmon think everything's fine, everything's
23 legitimate. 2,000 to the casino. He pays on his mortgage,
24 pays two of the other victims. Classic Ponzi scheme,
25 stealing.

1 As part of the wire transfers with Mr. Willmon's
2 money, he transfers money to himself. So it goes from his
3 KBKK bank account to another one of his accounts, and
4 that's what's charged in Count 2 of the Indictment.

5 This is Mr. Shteyngart. Mr. Shteyngart, it's very
6 clear. There's texts, the money's exchanged, and then the
7 theft. "Hey, are you interested in that 24-month UIT I
8 spoke to you about? Percentage of return is 8-9%."

9 Mr. Shteyngart gives \$20,000 and then there's the
10 summary of the theft and you also know -- that's the text
11 messages that I just quoted.

12 There's the money.

13 And here's what happens to it. It goes to another
14 victim, James Seegan, goes back to Mr. Shteyngart; and then
15 about \$3,000 of it goes to his personal mortgage.

16 So Counts 3, 4, 5, and 6 -- and we reviewed those
17 this morning -- all relate to Mr. Greening. Mr. Greening
18 is the lawyer who had the \$75,000 stolen from him. He's
19 the one who called Mr. Ashley and made the video recording
20 of it where he asked him, "Hey, where is my money" and
21 there was, you know, babble, babble, "Oh, I never said
22 anything about Parkland," oh, but you did because I have it
23 in the text messages.

24 Anyway, the Counts 3, 4, 5, and 6 relate to the
25 theft from Mr. Greening. That was the \$75,000. And that

1 money -- these are the texts sent between the two of them.
2 "KBKK autopopulated as where I'm supposed to send the
3 money. Is that right?" Mr. Greening thinks that sounds
4 weird but, again, he trusts him; so he sends the money to
5 the defendant's personal account.

6 There is the \$75,000 wire.

7 And here's what happens to the money. \$14,000 of
8 it goes to casinos. \$6,000 of it is spent to -- on an
9 unpaid gambling debt. Same thing. Just stole the money.

10 Counts 4, 5, and 6 are amounts of Mr. Greening's
11 money that again the defendant transferred from his
12 personal account to another personal account of his. This
13 one, Count 4, is the \$16,000. Count 5 is \$12,000. Count 6
14 is \$13,500. So that's all the stealing.

15 But the ultimate theft caper, as we know, is what
16 resulted in the murder of James Seegan. It's all preceded
17 by extreme financial stress, and you heard Matt Wylie
18 testify to the stress he was under. He's got his pet
19 project, his vanity project, the brewery there in Allen.
20 The brewery is not making money. It's losing money. It's
21 bleeding. In 2018 it loses money. 2019, it loses money.
22 January to June of 2020, it's losing money. Every single
23 month the defendant has to come up with about \$30,000 to
24 even break even. He is in bad financial straits.

25 So what happens? What's the plan here? Well, he

1 knows that 2016 he sold a \$2 million life policy to James
2 Seegan; and you know from Midland life's testimony that in
3 the first two years, they only pay your premiums back if
4 you commit suicide. Outside of two years, if you commit
5 suicide you're going to get the full \$2 million.

6 Then in April of 2019, Ashley gets all the power
7 in the world. But to be able to execute that power, to act
8 on that power, James Seegan has to die, because he won't be
9 the executor unless James Seegan is dead.

10 Then January 29th of 2020, James Seegan's trust
11 becomes the beneficiary of the \$2 million life policy. As
12 we've said, upon James Seegan's death, Ashley controls the
13 entire estate and thinks that he can control and manipulate
14 Dida and tells Dida that she's going to get \$3.4 million.
15 No, it's not 3.4 million. You left out the 2.

16 And this is the last will and testament. This is
17 where he becomes the executor and the trustee. (As read):
18 "Keith Ashley, to be independent executor of my will and
19 estate and trustee of all my trusts created by my will."
20 That's power. And Mr. Seegan signed it.

21 Then he becomes the independent executor of the
22 trust, successor trustee. There's the language. (As
23 read): "If James Seegan dies, resigns, becomes
24 incapacitated, or otherwise ceases to serve as trustee
25 under this agreement, then Keith Ashley shall become the

1 trustee of the trust."

2 And the powers are to invest and reinvest and do
3 anything you want basically. Well, that's what he's
4 already been doing. Now he's not going to have to go
5 through the ruse of faking to Robert Greening, faking to
6 James Seegan, faking to Leonid that there is going to be an
7 investment. He can do whatever he wants under the terms of
8 this trust.

9 And here's what the estate's worth. Mr. Seegan
10 declared that he was with, plus or minus, \$3 million. And
11 this is on the insurance -- life insurance documents, so
12 Keith Ashley well knows how much he's worth.

13 Then there's one policy worth \$400,000. That's
14 the one he's going to tell Dida about. That's the one he's
15 going to use to distract her. And then there's the one
16 worth \$2 million that's going to go into the trust.

17 So total estate value looks like it's about
18 \$5.4 million. As I've said, you never have to prove
19 motive; but it's always a question. And here there's
20 5.4 million reasons why Keith Ashley wanted James Seegan
21 dead.

22 Three weeks later. It's three weeks after the
23 paperwork is finally in place. He's calling, calling,
24 calling, checking with Midland life, faxing them, emailing
25 them, calling them. Three weeks after the paperwork is in

1 place on January 29th of 2020 that what happens? Can't
2 even wait three weeks. Three weeks later there is a
3 robbery causing the death of a person through the use of a
4 firearm -- and we know that that's James Seegan. And as
5 part of the robbery, we've also charged it as the bank
6 theft. There is a bank theft in which the defendant killed
7 the person.

8 In one fell swoop he did both of those things on
9 February 19th of 2020, three weeks after the \$2 million
10 goes into the trust that Keith Ashley's going to control if
11 James Seegan dies.

12 And here we get to the chart. February 19th of
13 2020, 9:00 a.m. James Seegan has on his calendar
14 appointment, "9:00 a.m., Keith blood." How would Keith
15 Ashley know that? You can't control what someone puts on
16 their iCalendar. It's right there written literally in
17 blood that Keith Ashley is the person coming over that
18 morning.

19 And sure enough, here he comes.

20 (Visual presentation to the jury.)

21 Walking up to the door. Got his backpack on.
22 Captured by the Nest.

23 Watch how he reacts when Mr. Seegan comes to the
24 door.

25 Waiting. The face of someone getting ready to

1 commit a murder.

2 Ooh, there he is. Smiling like he was being
3 greeted by somebody.

4 That's not how he acts when he goes in the second
5 time. Remember he goes in quickly the second time.

6 (Visual presentation to the jury.)

7 That's him going in again.

8 We can go forward to the next slide.

9 This is the backpack. Do we know that's the exact
10 backpack that he had on his back on February 19th of 2020?
11 No, but it looks similar.

12 And the interesting thing is when law enforcement
13 went in and searched his house in September of 2020, he had
14 a gun in the backpack. And the information that law
15 enforcement got as they did interviews was that Keith
16 Ashley always carried a gun in his backpack, so what does
17 it make sense was in his backpack when he went to James
18 Seegan's house on February 19th of 2020?

19 We know that 9:33 a.m. the last step was logged on
20 James Seegan's phone.

21 9:42 a.m., he answered his last call.

22 10:15 a.m., the garage camera activates at James
23 Seegan's home.

24 Okay.

25 (Audiovisual presentation to the jury.)

1 Okay. That was the first time. And, remember,
2 law enforcement is responding and they're at James Seegan's
3 house, the crime scene, and they're looking at Mr. Seegan's
4 phone and the body camera that one of the police officers
5 is wearing captures the sound. So it's a recording of a
6 recording. And then they're unable to recapture it after
7 that. But that's the first pop.

8 Let's listen to 94A. This is when law
9 enforcement --

10 (Audiovisual presentation to the jury.)

11 That's it. That's what happened. That's what the
12 found was at 10:15 a.m.

13 And then 94C is the re-creation.

14 (Audiovisual presentation to the jury.)

15 It's a firearm. He shot him in the head.

16 Google Nest bookends that he was there. It
17 captures him coming, it captures him going, and it captures
18 the sound. Guilty. He did it.

19 And what searches does he do on Google? "Can Nest
20 camera indoor detect sound if no motion?" Well, he wants
21 to know that. "Does Ring pick up sound if no motion
22 detected?" "Time of death calendar"? "Can you tell when
23 someone died, the time"?

24 Well, of course he's going to be worried about
25 that because he knows he's captured at the door coming in

1 and going out and he doesn't want the time of death to be
2 when he was there.

3 But he wasn't anticipating the sound. "Can Nest
4 camera indoor detect sound if there is no motion?" He
5 wasn't expecting that and it did. And he killed him at
6 10:15, and then he printed the fake suicide note at 10:17.

7 Documents printed. We already walked through the
8 document, the things that don't make sense about the
9 document and the things that compare to the defendant's
10 writing style.

11 Same thing. We've already reviewed this.

12 This is him leaving the house.

13 (Video presentation to the jury.)

14 He's got the note all ready. It's in place. Just
15 committed the murder. He's got his backpack there. Headed
16 out.

17 Then what does he do? It's the fake "Oh, buddy,
18 hope you're doing okay" messages, kind of an alibi, I
19 didn't know what was happening. So he sends these over
20 there. And then after this, after he sends these messages
21 and makes these phone calls checking on him, then he goes
22 back to the house.

23 So if Mr. Seegan had already committed suicide, he
24 would have found him and called 9-1-1 right here, when he
25 goes back to the housing.

1 Now, we don't know why he went back to the house;
2 but the reasonable inference is he forgot something. He
3 thought it was going to be the perfect crime. He thought
4 etomidate was fast-in/fast-out, knock him out, shoot him in
5 the head. He forgot something. Did he leave the band on
6 the arm? Did he think he dropped something? Did he drive
7 away, ooh, forgot something? Who knows why he went back.

8 But the thing about him going back is if that had
9 been Mr. Seegan committing suicide and he sent those fake
10 texts, when he went back, he would have found him and
11 called 9-1-1.

12 Now, you'll remember the video. He goes straight
13 in the house -- the door is unlocked; nobody greets him --
14 because he knows that James Seegan is dead.

15 There he is walking up to the door. There he is
16 leaving again. Then he sends more fake texts, calls him
17 again. Nobody answers throughout the day.

18 And then we all heard the 9-1-1 call. "Daddy,
19 daddy." James Seegan is found by his wife and son with a
20 gunshot wound to the head.

21 "My dearest friend Keith Ashley." He didn't
22 arrange to take care of Dida. He arranged for her to find
23 her husband with her son in the condition that we all saw.

24 And then he just can't wait. The very next day,
25 two phone calls to Midland life. Where's my money?

1 Where's my money? This is Count 3. It's one of the wire
2 fraud counts.

3 And then the bank theft. And you heard the
4 testimony about the bank theft. He attempts to reach the
5 account from his house. That's what the IP address shows.
6 He can't get into the account, so he drives down to James
7 Seegan's -- Dida's house at this point, uses Josh, gets
8 into the phone, and is able to complete the transfer.

9 So he tries to get in in the Eastern District. He
10 does get in at Mr. Seegan's house in the Northern District.
11 And then the money is transferred into his account in the
12 Eastern District.

13 All this talk about venue, Judge Mazzant is going
14 to tell you that there is a lesser burden on venue. It's
15 by a preponderance of the evidence. That means if you're
16 reading a book and you turn one page, that's a
17 preponderance of the evidence.

18 The other thing I expect that Judge Mazzant will
19 tell you, that you can find a defendant guilty in a
20 continuing offense in any district where the crime is
21 begun, continued, or completed. And here -- and you'll see
22 the jury instructions, and Judge Mazzant will read them to
23 you. Here the crime was begun in the Eastern District,
24 continued in the Northern District, and completed in the
25 Eastern District because that's where he sent the money.

1 So feel confident as you check "guilty" on that count.

2 Here, this is the transfer. That's the actual
3 wire. Again, this is charged as Count 14, wire fraud,
4 because he's using a wire to steal money; and it's also
5 charged as Count 19, the bank theft.

6 One thing in Count 19 that you'll see is there is
7 an element, and it says, "Was the bank FDIC-insured?" It
8 seems like a technical thing, but I just wanted to assure
9 you that Exhibit Number 22 in the evidence is the FDIC's
10 certificate showing that the bank that the money was taken
11 from was insured.

12 And what does he do with the money? He just
13 steals it. Like I said, none of the money went to Dida
14 Seegan. It all went to him. He pays college tuition. He
15 goes out to dinner on it, \$117 on dinner. Pays off two of
16 the other victims. He just spends it all on himself. He's
17 just killed a man. He's going to the casino and using the
18 money for himself.

19 What he doesn't anticipate is Dida's resolve. He
20 thinks he's going to be able to control and manipulate
21 Dida, and he's not. And, you know, through
22 cross-examination -- really, it's the ultimate indignity to
23 have your husband killed and then have the private details
24 of your marriage exploited. I mean, that's the ultimate
25 indignity.

1 But what he doesn't count on is that she has a
2 support system. She has a friend. She hires a lawyer, and
3 the police start to ask questions because she says this
4 isn't right from the beginning.

5 And she's not the only one. Remember Captain
6 Patrick King with the fire department? He walked in that
7 room. He's a captain, a supervisor, many years'
8 experience. And what does he say? "Everybody out. This
9 doesn't look right." He called it. He said this looks
10 like a staged suicide; and, in fact, it was.

11 You may fool the medical examiner, but you're not
12 going to fool somebody with common sense who walks in there
13 and says this doesn't look right. He was right. It was
14 not a suicide; it was a murder.

15 Then what does Keith Ashley do? He starts running
16 scared. He gives Robert Greening his money back, \$75,000,
17 because Robert Greening calls him on it.

18 And he resigns as the trustee and executor. You
19 know, you can't unrob a bank. You can't rob the bank and
20 give the money back and say, "Oh, sorry." You can't kill
21 someone to try to get their money and then resign as the
22 executor and say, "Oh, I didn't really want the money."
23 The deed is done.

24 You stole Robert Greening's money. Just because
25 he called you on it and gave it back doesn't mean there

1 wasn't wire fraud and theft. There was.

2 Just because you resign as the trustee and
3 executor doesn't mean you didn't kill James Seegan. We all
4 know what you did.

5 And we talked about this. Again, the blood
6 evidence, the blood evidence, the unexplainable etomidate
7 in James Seegan's blood and the defendant googling "QTOF."

8 The letter, the secret letter to Paul Villarreal.
9 You can't order it on your own; you have to have it sent to
10 Paul Villarreal.

11 The Google searches. "Manslaughter deferred
12 adjudication," "manslaughter jail time." What's going to
13 happen if I kill somebody and they figure it out? "Time of
14 death calculator." "How can you tell if a case is going to
15 the grand jury?" "Can manner of death be changed by the
16 medical examiner?" "Can the police overrule the medical
17 examiner?"

18 He wants to know these things because he thinks he
19 got away with it when it says "suicide." He doesn't want
20 it to get overruled. A careful review of the evidence that
21 you've seen shows what happened.

22 So here are the elements of the offense. Judge
23 Mazzant is going to have these in the instructions that he
24 gives you, and each one of you will have a copy of it.
25 It's the law that applies in this case. And what you'll

1 look for are what are the elements for each one of the
2 crimes.

3 And I've put it up here, and you'll have these in
4 the jury instructions so you don't have to remember any of
5 this. But for wire fraud, it's that the defendant
6 knowingly devised a scheme to defraud.

7 And the scheme that's charged in this case is one
8 in which the defendant solicited money from victim
9 investors for purported investments when in reality, the
10 funds were used for personal enrichment and other purposes,
11 okay, other nonbusiness purposes.

12 Did he do that? Yes.

13 The scheme to defraud deployed (*sic*) false
14 material representations, false material pretenses, or
15 false material promises; and that the defendant transmitted
16 or caused to be transmitted by way of wire communications,
17 in interstate commerce -- that's what we went over this
18 morning -- any writing, sign, signal, picture, or sound for
19 the purpose of executing the scheme; and, finally, that the
20 defendant acted with a specific intent to defraud.

21 Those are the elements. And then you know in
22 Counts 1 through 6, 9 through 14, and 20 that he's charged
23 with wire fraud.

24 And there is a special question in the wire fraud
25 you'll see in the verdict form for each one of the counts.

1 As to Count 1 you vote -- we would suggest that the
2 evidence supports that he's guilty of this crime. And then
3 see the question under that? "If you answered 'guilty' in
4 response to Question 1, go to Question 1(a)."

5 "With respect to Count 1, did the defendant's
6 violation affect a financial institution?"

7 The law is -- and Judge Mazzant will tell you that
8 it doesn't have to be an actual effect; it just has to be
9 the possibility that a financial institution will be
10 affected.

11 And the witness, Ms. Gallot from Branch Banking
12 and Trust, told you that anytime there is fraud involved in
13 any of their accounts, the bank can be held responsible and
14 the bank can be affected. So we would ask you to check
15 "yes" to that special question.

16 Mail fraud. Mail fraud is the same thing as wire
17 fraud. It's lying and based on your lies and based on your
18 fraud and based on your misrepresentations, something is
19 placed in the mail. And that's Counts 15 and 16.

20 THE COURTROOM DEPUTY: You have 50 minutes left.

21 MS. RATTAN: Thank you.

22 Carrying a firearm during the commission of a
23 crime of violence. These are the elements: That the
24 defendant committed the crime of affecting commerce by
25 robbery -- that's the robbery that he committed against

1 James Seegan when he murdered him -- and the defendant
2 knowingly carried a firearm during and in relation to his
3 commission of the crime of affecting commerce by robbery or
4 that he knowingly possessed a firearm and that possession
5 was in furtherance of his commission of the crime affecting
6 commerce by robbery.

7 That was the whole CAST presentation that you saw
8 through Special Agent Mark Sedwick, and then you saw it
9 again this morning through Agent Rennie where it was a
10 smoother presentation and you saw the route that he
11 followed as he went to James Seegan's house the morning of
12 February 19th of 2020 to rob and murder him.

13 He was carrying a firearm. He had that firearm on
14 him. The only place he stopped was at the brewery; and
15 that was in the Eastern District of Texas, too. Did he
16 pick up the firearm at the brewery? We don't know.

17 Did it come from the house? We don't know.

18 But we know that when he got to the house, he had
19 a firearm and he executed James Seegan. He would have had
20 to have carried it in the Eastern District, gone that final
21 2.6 miles in the Northern District and into James Seegan's
22 house and murdered him.

23 This is the affecting commerce by robbery. Those
24 are the elements. And here the final element, that the
25 defendant's conduct in any way or degree obstructed,

1 delayed, or affected commerce or the movement of any
2 article or commodity in commerce.

3 That's why we presented the testimony this morning
4 about James Seegan and the fact that that was his office,
5 that was a business, he had incorporated, he was an LLC.
6 So anything that's done to interfere with James Seegan's
7 business -- no matter how minor or how minimal, Judge
8 Mazzant will instruct you -- is sufficient to meet this
9 element.

10 And you heard Special Agent Rennie testify that
11 there were expenditures. We walked through them. They
12 were interstate expenditures. And it makes sense, common
13 sense. What happens after James Seegan died? Of course
14 the expenditures stop, so commerce is affected. He stops
15 buying things. He starts -- stops spending money on
16 things.

17 So here are the questions as to Count 18: Do you
18 find the defendant guilty as charged in Count 18 of the
19 Indictment? That is, possessing or carrying a firearm in
20 furtherance of the crime of violence; and the crime of
21 violence is the robbery.

22 And then 18(a), did the defendant, in the course
23 of violating 924(c)(1) -- the crime that you found him
24 guilty of -- cause the death of a person through the use of
25 a firearm? Yes, he did.

1 And then the final question, did the killing found
2 in Question 18(a) constitute murder under -- and then
3 you'll see the specific murder statute in the instructions
4 as well. Basically, it's did the defendant mean to kill
5 him? And if the answer is yes, then you check "yes" on
6 this.

7 Bank theft. Bank theft is what happened when he
8 took the money right after killing James Seegan from Texas
9 Capital Bank. And here's the elements:

10 That the defendant did or did attempt to take or
11 carry away money and property belonging to or in the care,
12 custody, control or management or possession of Texas
13 Capital Bank. Yes, that's where the money was, the
14 \$20,000.

15 That at that time Texas Capital Bank had its
16 deposited insured by the FDIC. Yes, I showed you that
17 certificate. I think it's Government's Exhibit 22.

18 Third, that the defendant did or did attempt to
19 take and carry away such money and property with the intent
20 to steal. Well, you know what he did with the money. You
21 saw the chart analysis. He took it.

22 And that such money and property exceeded \$1,000
23 in value. It was 20,000.

24 Check all those elements. Guilty.

25 And then there is a special question, too, with

1 regard to Count 19. This question is if in avoiding or
2 attempting to avoid apprehension or in freeing himself or
3 attempting to free himself from arrest or during the crime,
4 did the defendant kill anybody any person.

5 So while he's committing the bank theft, as part
6 of the bank theft or leaving the bank theft, did he kill
7 any person? And you'll see the language here. You'll be
8 able to read it. And we'd suggest to you that the answer
9 to that question is "yes."

10 That's the evidence. It's really shocking that
11 someone would commit this type of crime, but he's guilty.
12 It's shocking and offensive, but we would ask you to hold
13 him responsible for it. He thought that he would get away
14 with it. He -- you have to imagine when he saw the medical
15 examiner's report that it said "suicide," that he was very
16 hopeful.

17 But a careful review of the evidence shows what he
18 did. He was stealing, and he was ultimately killing James
19 Seegan.

20 He's been charged with wire fraud, mail fraud,
21 carrying a firearm during a crime of violence, and bank
22 theft. The elements are established for each one of those
23 crimes, and we'd ask you to hold him responsible for each
24 one and find him guilty.

25 Thank you, your Honor.

1 THE COURT: Thank you, Ms. Rattan.

2 Mr. Whalen, if you'd like to do the defense's
3 closing argument.

4 MR. WHALEN: Ladies and gentlemen, thank you for
5 your time and I'm going to go through some slides with you
6 to have -- help you evaluate the evidence in this case and
7 tell you what we think the results should be in this case
8 and so let's start with that.

9 So the first slide we're going to talk about is
10 what is your job as a jury, okay? And your job is to weigh
11 all of the evidence in this case. You have to hold the
12 government to their burden of proof. As the Court will
13 instruct you, it's the government's burden to prove each
14 and every element to you beyond a reasonable doubt. And
15 you have to analyze each count individually, apart from one
16 another; and as I said, they have to prove each and every
17 element of the case to you beyond a reasonable doubt.

18 Okay. Number 2, what is not your job? It's not
19 your job to decide what the law is or should be. It's not
20 your job to help the government get over the finish line.
21 If they didn't prove it to you beyond a reasonable doubt
22 and you have a reasonable doubt, it is a not-guilty. It is
23 not let's help the government and fill in the blanks for
24 them.

25 In order for you to make the government's

1 narrative work, they're asking you to make inference after
2 inference after inference to try to make it work. That's
3 not your job. Your job is to make reasonable inferences.

4 And, finally, you're not here to convict Keith
5 Ashley because the government asked you to. It's because
6 they have to prove it to you beyond a reasonable doubt.

7 Now, the most important thing in this case is what
8 the definition is of a "reasonable doubt." A reasonable
9 doubt is a doubt based upon reason and common sense after
10 careful and impartial consideration of all the evidence in
11 the case. Proof beyond a reasonable doubt, therefore, is
12 proof of such a convincing character that you would be
13 willing to rely and act upon it without hesitation in
14 making the most important decisions of your own affairs.

15 So that's what the -- that's the burden of proof.
16 It never changes. It never lowers. That is the burden of
17 proof that they are required to meet in this case.

18 And what are the elements? Every single element
19 is just as important as the other, okay? They each have
20 equal weight, and they have to prove each and every element
21 to you beyond a reasonable doubt.

22 And remember, we talked about the analogy of
23 making a cake. You have to have each ingredient. If one
24 is missing, they haven't met their burden of proof on that
25 charge.

1 And if the government fails to prove even a single
2 element to you by law, you must find him not guilty.

3 So I'm going to go through the wire fraud counts,
4 the mail fraud counts, and kind of work through the
5 Indictment for you. First is the government is saying and
6 the judge will instruct you that he knowingly devised or
7 intended to devise any scheme to defraud, that the scheme
8 to defraud employed false material representations, caused
9 a wire to be transmitted for the purpose of executing such
10 a scheme, and he acted with a specific intent to defraud.

11 So let's go through each count as we go through
12 each count. We go through Count 1, the wire fraud, there
13 has to be a scheme charged in which he solicited money from
14 victim investors for purported investments.

15 Now, if you look at Government's Exhibit 114, in
16 the evidence is this Promissory Note from Mr. Seegan to
17 Mr. Ashley for \$150,000. And so is it the investment, or
18 is it a Promissory Note? So you need to look at what you
19 find in there.

20 Then you also look at as it relates to
21 Mr. Greening. And there is also the Gift Letter and also
22 the Promissory Note there that they talked about earlier,
23 the \$225,000 and the \$65,000 equals 290-. So go through
24 the exhibits. Look at what the evidence is there and see
25 whether or not they proved that.

1 Now, the next thing to do is to go to Count 3,
2 which is the wire fraud for Mr. Greening. Remember you had
3 those emails; but you also had his zoom call that you
4 looked at, okay? Remember that. And he says, "All right.
5 I just wanted you to know. I never can remember exactly
6 what we did, so I'm just trying to remember it."

7 And so in that he says, "I can't remember what we
8 did." And as the evidence showed to you, as he went -- as
9 he thought about it more he says, "Yeah, I don't want to do
10 that"; and then Mr. Ashley returned the money to him. So
11 is there a reasonable doubt as to Count 3?

12 Now, if we next go to Counts 2, 4, 5, and 6, I
13 would ask you to look at those collectively, okay, because
14 I think the argument is the same for all of those counts.

15 Defendant transmitted or caused to be transmitted
16 by way of wire communications for the purposes of executing
17 the scheme. Okay. If you look at the wire counts that
18 they -- in 2, 4, 5, and 6, there were payments to himself.
19 They weren't any payments to the investor, and they didn't
20 further the scheme in any way.

21 And so when you look at those and analyze the law
22 on each of those counts, those are payments to himself and
23 they didn't further the scheme in any way, shape, or form.
24 And so when you look at those, analyze it with this thought
25 in mind because all of those counts came from that

1 original -- like in Count 2 it came from that original
2 \$20,000 which was a check, okay? Well, they can't use wire
3 fraud for a check because it's not the use of a wire. So
4 then they are attempting to use this wire as that's part of
5 the scheme. Look at the evidence, and look at the counts.

6 And the same goes for 4, 5, and 6. They relate to
7 Mr. Greening's \$75,000. And those -- all those counts came
8 through -- all those wire transfers were transferring money
9 from himself to another account of his. There's not any
10 wire that they showed you or charged him with that shows
11 it's going back to another investor. These are simply
12 going to another account.

13 So when you look at the law that you're going to
14 get and analyze those wires, at the end of the day there's
15 no furtherance of the scheme based on those wires. And so
16 we would ask you to find him not guilty on Counts 2, 4, 5,
17 and 6.

18 Next, on the issue of affecting a financial
19 institution, I think you have to use your common sense
20 about affecting a financial institution. There is an
21 increase of risk of loss caused by the scheme. I think
22 when you listen to what the BB&T person said, she had no
23 idea -- she said it could. "That's really not my area of
24 expertise. That's not what I do." And she didn't --
25 there's no evidence in this record from anyone from BB&T

1 that says that they suffered any type of financial loss or
2 there was some risk of financial loss to them.

3 And so look at that when you get to the special
4 issue and answer that "no" because there is no evidence in
5 this record beyond a reasonable doubt that it affected a
6 financial institution. So look at that when you get back
7 to the jury room because I don't -- there is not any
8 evidence to support that. It's just a suggestion, and
9 that's not proof beyond a reasonable doubt.

10 Then look at Counts 9 through 13, which is -- they
11 allege is the wire fraud against Midland. Now, they've
12 alleged certain things about the fraud against Midland; but
13 I don't ever see that there was ever a fraud against
14 Midland, okay?

15 What you have in the evidence was this change in
16 beneficiary form. And so when you look at all the wire
17 counts as it relates to that, what is about those wires
18 that are false or what misrepresentations were made?
19 Because what the evidence shows, the changes were made with
20 Mr. Seegan's consent, because when you listen to it -- the
21 testimony at Agent Rennie, at one point he testified that
22 one of those phone calls was made at his residence.

23 So we know that there is evidence in the record
24 that he made one of those phone calls from his residence.
25 So what is the intent to defraud here other than to change

1 the beneficiary with Mr. Seegan's consent and he's involved
2 in it?

3 The other thing that I would look at was -- at
4 this point is they talk about wire fraud. Well, there's
5 nothing about what -- Dida apparently says she didn't know
6 anything about the trust, so there is never any intent to
7 defraud here in these counts.

8 And the other thing, too, is they want to talk
9 about, you know, whether or not it's a trustee; but it was
10 very specific in the language there was a -- it's whether
11 there was a beneficiary. We wanted to know whether it was
12 a beneficiary. What did Ms. Jacobson say? "Well, we don't
13 go down to the second part unless it's a certain type of
14 trust." Okay?

15 But also if you listen to the phone calls, what is
16 the nature of the phone calls when Mr. Ashley is on the
17 phone? "How do we fill this out?" "What do we do?" "How
18 do we change this to make it so it fits?" They are
19 instructing him, telling him how to do it throughout this
20 entire process, and so he made no misrepresentations on it.
21 They told him how to fill it out.

22 So when you look at Counts 9 through 13, there's
23 no specific intent to defraud.

24 And then I think what's really important about
25 this, too, is if there really was this specific intent to

1 defraud -- remember there was a phone conversation about
2 "Do you need to make any changes to the address?" And I
3 think it was after he made the phone call that Mr. Seegan
4 had passed. And they said, "Do you need to change the
5 address." And what was the answer? The answer was, "No."

6 And the question I asked her, I said, "Well, could
7 the agent say, 'Yeah, no, change the address. The mailing
8 address has changed'?"

9 And what did she say? "Yeah, we would have done
10 that."

11 So there's no specific intent to defraud on these
12 counts whatsoever because what the evidence shows is that
13 it was at the direction of Midland who is telling him how
14 to fill out the form and then if he could have made a
15 misrepresentation or changed the address, he didn't.

16 And so I don't understand how anything that he did
17 in those 9 through 13 -- and if you look at the law -- that
18 any of these counts furthered any type of scheme against
19 Midland whatsoever. So look at those -- look at those
20 counts very closely.

21 And then when you get to Count 14, which is the
22 \$20,000 payment, that -- how did that further any scheme
23 against Midland?

24 Now, it's related back to the bank theft and we'll
25 get to that, but how does that -- was a misrepresentation?

1 Was there anything -- Midland didn't even know about it.
2 So was there any evidence in the record that Midland knew
3 that \$20,000 got transferred and they took any action?
4 What was the false misrepresentation to Midland that they
5 said, "We" -- they came in here and said, "Well, based on
6 that we relied on this and we did X"?

7 There's nothing as it relates to Count 14 that is
8 an intent to defraud Midland whatsoever. There is no
9 evidence presented of what that meant to Midland and what
10 action Midland took. So look at Count 14 as relates to
11 that because I think there's -- it's not -- there's not a
12 scheme again Midland. So look at Count 14 very closely.

13 And then when you get to Count 15, which is the
14 mail fraud, they talk about -- obviously you have the law
15 about the mail fraud; but there's only two mailings that
16 you're talking about here, okay? Count 15 is changing the
17 beneficiary. Once again this is done at Mr. Seegan's
18 request. He's on the -- the call was made from his home.

19 And then they talked about that these forms are
20 mailed as a matter of course. If there's any change in the
21 policy, they're mailed as a matter of course. And what was
22 the misrepresentation to Midland that they relied on to
23 then -- that cause the mail to be used?

24 There is nothing to support Count 15 that there
25 was something fraudulent about the change in beneficiary

1 because the evidence, as we said, Agent Rennie talked
2 about, the phone call was made from close to that location
3 or that house. So what was false about it? He had a
4 trust. He wanted to change the beneficiary to the trust,
5 and he did that. There's nothing false about changing the
6 beneficiary.

7 And then Count 16 as it relates to the autopsy
8 report. There's -- he's charged -- the scheme has to be to
9 obtain money and property. So how does knowing about
10 getting the autopsy report that is a public record a
11 misrepresentation that somebody relied on to further the
12 scheme?

13 There's no evidence of any money being solicited
14 or received after it was ordered. It was never used. So
15 there's nothing about the mailing of the autopsy to
16 Mr. Villarreal that furthers the scheme or was a
17 misrepresentation. So look at the law. Look at the facts.

18 The next thing we'll talk about is Count 20, which
19 is the alleged wire fraud or attempted wire fraud against
20 Midland. Okay. They brought up that -- or I think the
21 government tried to suggest that he was taking a life
22 insurance policy out on Mr. Villarreal that he didn't know
23 about.

24 Okay. Well, that doesn't make any sense because
25 he submitted to a blood test by a third-party independent

1 person who is going to show up and say, "I'm here to take
2 your blood for your life insurance policy." So this idea
3 that Mr. Ashley took a life insurance policy out on
4 Mr. Villarreal unbeknownst -- or tried to unbeknownst to
5 him is just not true. It defies a reasonable inference.

6 So think about it. You heard testimony, I think
7 from Ms. Nordquist, who said, "Well, agents know what the
8 cutoffs are for policy limits and qualifications and
9 everything else that they talked about; and they know there
10 are certain policies that can get approved without a blood
11 test." So if anybody would know how to obtain a life
12 insurance policy without having to go through a blood test,
13 it would be an agent.

14 But look at the documents. That was there. We
15 checked the box we smoke half a pack a day, we smoke
16 marijuana, which is critical for them in their analysis.
17 He says, "We'll order a third-party" -- "We'll order the
18 blood test," which then gets the blood -- the blood test is
19 ordered. And then because of his untreated diabetes, it's
20 denied.

21 Well, he worked -- Mr. Villarreal worked for
22 Mr. Ashley, and you heard testimony that they were close
23 and they worked together. Well, he knew he had diabetes,
24 okay?

25 So the inference is, well, why would he do that?

1 Well, maybe Mr. Villarreal, who would never go to the
2 doctor, would finally get some results to be able to
3 convince him to go to the doctor. Is that a reasonable
4 inference?

5 But at the end of the day, it has to be a scheme
6 to obtain money or property. The only thing we're trying
7 to obtain is a life insurance policy. Does that fit the
8 definition of "money or property"?

9 So there's no misrepresentation. They want to
10 focus on, well, he said he was his stepbrother. But let's
11 be honest about what we look at in a life insurance policy
12 is insurability. They want to know are you going to die
13 anytime soon.

14 And when you look at the evidence they have and
15 the representations that were made on the application and
16 his blood test, he got denied. So this doesn't fit the
17 definition. This doesn't fit the elements beyond a
18 reasonable doubt. That's a not-guilty as well.

19 So now we go to Count 18 which we have spent --
20 the government has spent the majority of their time in this
21 case about, and that's really what they focused on. But
22 really the elements of this count because this is where we
23 talked -- when I talked to you in opening statement. This
24 is complicated. This is going to be unpleasant. But you,
25 as jurors, took an oath to follow the law.

1 And so the first element is the defendant
2 committed the crime of affecting commerce by robbery and
3 then, second, used or carried a firearm in relation to that
4 robbery affecting commerce.

5 Okay. So you have to first think about -- if we
6 go to the next slide -- he obtained or attempted to obtain
7 personal property in his presence, against his will; did so
8 by means of actual or threatened force; and the conduct in
9 any way or degree or obstructed, delayed, or affected
10 commerce or movement of any article or commodity in
11 commerce.

12 Now, this is a real technical definition. But
13 it's the law, okay? When you hear everything about
14 technicalities, "technicalities" means it's the law that
15 you took an oath to follow.

16 So what is the instruction we anticipate you're
17 going to get as it relates to commerce? A robbery of an
18 individual affects interstate commerce if the robbery
19 depletes the assets of an individual who is directly and
20 customarily engaged in interstate commerce, or the robbery
21 causes or creates the likelihood that the individual will
22 deplete the assets of an entity engaged in interstate
23 commerce, or the number of individuals victimized or the
24 sum at stake is so large that there will be some cumulative
25 effect.

1 Okay. The last one, there is not multiple
2 robberies that they have alleged in this case. There is a
3 single robbery, so there is not multiple victims of
4 robbery.

5 Second -- the second area is there is no entity
6 that there was a likelihood that their assets would be
7 depleted, so Number 2 doesn't fit here.

8 So you're really -- you're left with Number 1, in
9 my view of the evidence that's before you. And, you know,
10 we talked about -- they always ask you to use your common
11 sense. And you have definitions in the jury charge, but
12 you're also -- the ones that you don't get definitions for
13 them, you're supposed to use their plain and ordinary
14 meaning. Use your common sense.

15 The word "deplete," when you hear the word
16 "deplete," what does that mean to you?

17 And so you heard testimony that Mr. Seegan's
18 assets were \$5.4 million. So is there -- one, is there a
19 robbery and, two, does it deplete -- did it deplete the
20 assets? Okay. That's the first part of that question, and
21 the answer is "no."

22 The second part is "directly and customarily
23 engaged in interstate commerce," okay. It's directly and
24 customarily. They're together.

25 They tried/attempted through Agent Rennie to come

1 up here with this he owned a rent house so, therefore, he's
2 engaged in -- customarily engaged in interstate commerce.
3 The evidence is insufficient on that.

4 And then they also asked you because he had an
5 E*TRADE account or he had a Fidelity account. Well, if
6 that's the standard, then each and every one of us who has
7 a 401(k) is engaged in interstate commerce. That's not the
8 standard, and you'll have that back in the jury room.

9 So you'll have to focus that and analyze that
10 because if you don't believe that, one, there was a robbery
11 or, two, that it didn't affect interstate commerce, you
12 stop. You go straight to the verdict form and find not
13 guilty, because you can't get past that element. As we
14 said, each and every element requires them to prove it to
15 you beyond a reasonable doubt. And so you have to look at
16 the evidence as it relates to that element, and that is
17 critical. And look it. They haven't proven that to you
18 beyond a reasonable doubt.

19 As I said, this was not a robbery. There is
20 evidence that Dida was with him when the money was
21 transferred. It was two days later, and it's unrelated to
22 the allegation of the murder. So look at the evidence that
23 you have and read the law. They're not connected with one
24 another.

25 Then they have to prove those following elements,

1 that he unlawfully killed him, there was malice
2 aforethought, and it was premeditated. But you don't even
3 get to this question if you can't get past the robbery or
4 the interstate commerce question.

5 And I know people might get -- might think, well,
6 you're nitpicking. But it's the law. The reason why it's
7 the law is because you have to have an interstate commerce
8 to have federal jurisdiction, to be in this courtroom,
9 because Congress and the framers decided we don't want a
10 national police. That's what state court is for. So think
11 about that when you go back and deliberate with the
12 instructions that you have.

13 And so as you analyze this specific charge and
14 these elements, the fact it could have been, should have
15 been, may be, or will be charged elsewhere doesn't mean you
16 convict him here.

17 And I know, as I said in opening, some of this was
18 unpleasant. You saw some things you hoped you didn't have
19 to see. But the law requires you to find him not guilty on
20 those counts -- on that count.

21 Because the other thing -- and we'll talk about --
22 they have to prove that he carried the firearm, and I'll
23 talk about that as we get later on. But I think that's
24 a -- that's the threshold element that you have to get to,
25 is whether or not they proved to you beyond a reasonable

1 doubt that he possessed a firearm in the course of this.

2 And we'll talk about that in a second.

3 The next thing is the bank theft. And once again,
4 you know, this is a -- read these definitions. Did or --
5 take and carry away money from Texas Capital Bank. Look at
6 those elements because I think the other thing is whether
7 or not they can prove -- you're charged with either attempt
8 or the actual bank theft, okay? And so let's talk about
9 that.

10 You heard from Mr. Nielsen (*sic*) -- or Hilson -- I
11 apologize -- that the actual wire transfer happened at the
12 Cannes address in the Northern District of Texas, okay? We
13 know it's entirely in the Northern District of Texas.

14 So then what they are trying to say is there was
15 this attempt at his house, okay? But look at the -- listen
16 to the testimony. Remember the testimony of Mr. Hilson.
17 You'll see in the instructions that it has to be a
18 substantial step. You have to take a substantial step to
19 prove an attempt, okay? And there's -- and it has to
20 amount to more than mere preparation, okay? So read that
21 in the charge.

22 But what you had was, if I remember the testimony
23 correctly, is what Mr. Hilson said is there was a log-in at
24 the house -- at the IP address at Mr. Ashley's house, okay?
25 He then said -- he goes it then required a two-step

1 authentication at that point.

2 And what did he say? I think this was important.
3 Nothing was entered. 6 seconds is what he said. It lasted
4 the 6 seconds.

5 So then -- what he also talked about, too, is then
6 when it occurred at the Cannes residence, the Cannes
7 address in Carrollton, he said in order to effectuate that
8 wire transfer, you had to fill out a form.

9 So when you take that back to the 6 seconds, there
10 was no attempt to fill out a form to effectuate a wire
11 transfer to get a two-step authentication or to do any of
12 that. So as relates to the attempt, they can't prove that
13 to you. So then the only thing that they have is whether
14 or not you have the bank theft that occurred in the
15 Northern District of Texas.

16 And so -- and the law will say it can get started
17 in one and get finished in another. I acknowledge that.
18 But I think when you looked the evidence, they only proved
19 to you that there was a wire transfer effectuated in the
20 Northern District of Texas.

21 Now, the other thing, too, while I'm thinking
22 about it, is you're going to have language in there about
23 attempts. You have to consider attempts or you have to
24 consider the actual offense, okay?

25 You'll also have an instruction about unanimity of

1 theory, okay? What that means is you all have to agree
2 whether it was an attempt or a completed offense. Six of
3 you can't decide, well, I think it was an attempt and six
4 think, no, I think he actually completed it. That's not a
5 unanimous verdict. So read that instruction because that's
6 important when it comes to these issues.

7 Now, the next thing is there is a special issue as
8 it relates to causing death, okay? Once again, I know
9 you'll read the instructions. Use your common sense when
10 you read this where it says -- you'll need to determine
11 whether the defendant, in committing or attempting to
12 commit the offense, assaulted any person or put in jeopardy
13 the life of any person by the use of a dangerous weapon or
14 device or whether the defendant, in committing or
15 attempting to commit the offense, or avoiding or attempting
16 to avoid apprehension for committing the offense, or in
17 freeing himself or attempting to free himself from the
18 arrest or confinement for the offense, killed JS.

19 If you read that, it's at the time the wire
20 transfer is going through you have to consider, did that in
21 any way cause the death of any person or assault of any
22 person.

23 MS. RATTAN: Your Honor, I object. That's a
24 misstatement of the law.

25 MR. WHALEN: It is not.

1 THE COURT: Well, okay, the attorneys -- what they
2 say is the lawyer isn't the law. I will instruct you on
3 what the law is.

4 And you don't respond like that, Mr. Whalen.

5 MR. WHALEN: I apologize.

6 But read it. "At the time." "In committing."
7 Read it. And read it carefully because they cannot prove
8 that special issue to you beyond a reasonable doubt.

9 And it's also this offense. It relates to the
10 bank theft, not any other offense but this offense. They
11 can't prove that to you beyond a reasonable doubt.

12 So then it comes down to the government's
13 narrative, and they want you to follow their narrative and
14 accept it without question. And there's questions and
15 holes in their narrative, and so we're gonna go through
16 those and ask you to consider those and think about those
17 because those raise reasonable doubts.

18 They talk about Keith Ashley was financially
19 broke. Okay. He returned \$75,000 to Dr. -- to Robert
20 Greening. There was testimony that he had a brewery and
21 was selling in the casino out in Osage Nation. He was a
22 nurse. He had the net worth or the value of his home. And
23 they never did an analysis of his net worth to see whether
24 or not he was broke. They just looked at his bank accounts
25 and said, well, based on his bank accounts, he was

1 stressed, he was financially broke.

2 Then they said he spent years planning this trust
3 scheme, was the statement that we think we heard in
4 opening.

5 But Jim Seegan did this on his own. What did Jim
6 Cosenza say? "He reached out to me. I went to his house.
7 It was a slam dunk. He clearly knew what he wanted, and I
8 drew up the paperwork for him. It was very simple."

9 And then we'll talk about he revoked his
10 executorship within seven days.

11 And then they talked about he's a schemer, he's
12 manipulative. But think about everything that he did was
13 captured on video or in a wire or on a recording. If
14 you're scheming and if you're trying to plot some type of
15 scheme that you're going to control a trust that nobody
16 knows about, why tell anybody? Why tell anybody about the
17 life insurance policy? Why tell his widow, "Hey, you have
18 3 1/2 million and more to come"? Wouldn't it make sense to
19 say there's only a million dollars there?

20 Why would you disclose that if you're this
21 manipulative schemer who has had this plan in place?
22 Because if nobody knows about the trust and nobody knows
23 that you're the trustee and nobody's supposed to know about
24 the life insurance, why would you tell anybody about it?
25 He's the agent. He can control, "Let's change the address.

1 Send everything to me" or "Send it to this P.O. Box."

2 And then they said that Mr. Seegan was antidrug
3 and anti-vax, but then we find multiple prescriptions
4 bottles in the house.

5 He was anti-gun, but there's testimony they found
6 a receipt where he purchased a gun. And Detective Bonner
7 told you that he may have given guns to Larry.

8 And then he must have used the etomidate he took
9 in December of 2019. Now, it seems like they've backed off
10 of that and said, well, he had access to it; so he must
11 have had some. Okay. But why would you put in the Pyxis
12 that you're taking etomidate out because you know it's
13 recorded, you know it's there, you know it's going to get
14 traced back to you who took etomidate out.

15 The patient was actually intubated, okay, so that
16 means etomidate was used. So the question becomes, well,
17 how much?

18 Dr. Hail testified to the effects of it; but did
19 she review the medical records and say, "Well, this person
20 received this dosage during their treatment and, therefore,
21 that would have left some etomidate"? They didn't do that
22 for you.

23 And so there is no showing of any missing
24 etomidate. Ms. Scarbrough comes in here and testifies that
25 the pharmacy would have those logs, and then she says --

1 she also testifies how easy it would be to go get etomidate
2 out of a crash cart that you have to open and put your name
3 on it to say you opened it in the emergency room.

4 But what did she also testify to and which is
5 known is there is a badge system. In order to get in the
6 ER, you have to swipe your badge. In order to get in the
7 Pyxis, you have to swipe your badge.

8 So where are the records that show that Mr. Ashley
9 was at the hospital any other time but the 19th? And they
10 can't show you how much was used that day. It probably
11 could have been all of it was used. But they want you to
12 make an inference, well, because he had access, he must --
13 he must have had some. But they haven't proven that to you
14 beyond a reasonable doubt.

15 The other thing we talked about earlier was their
16 existence of the trust was hidden from the family. But he
17 immediately tells Dida and he calls Kerby Keller, who is
18 the secondary trustee on the trust and executor on the
19 will. So if you're trying to hide things and get away with
20 things, why would you tell Kerby Keller anything?

21 And then you also heard that Dida was only --
22 apparently -- she was only getting \$400,000. But he told
23 her, "You have over \$3 1/2 million coming and more to
24 come." Why would you even mention that if your intent is
25 to steal and control the trust?

1 And then they ask you to look at certain things.
2 The underlining of "today" in Greening text messages. And
3 then he tries to say, "Well, I must have been pressured."
4 The phone system does that automatically so you can put it
5 in your calendar. There wasn't any pressure.

6 Then they say, "Well, we found the same caliber.
7 The bullet must have come from Keith's home." But the
8 brands don't even match. So they want to make an inference
9 because he possessed a firearm, which everyone said he
10 possessed, which is the same one they found in the backpack
11 as well because he possessed the firearm and had firearms,
12 well, the gun they found in Mr. Seegan's house, he must
13 have possessed it.

14 Well, let's look at that. They want you to
15 believe the gun -- because the gun was purchased in the
16 Eastern District near Keith's home in 2013, he must have
17 bought it secondhand. And because he lived in Wylie,
18 therefore he must have bought it from Mr. -- I can't
19 remember his name off the top of my head.

20 But what did Agent Gresham say? Well the best
21 person to ask would be him, right?

22 And think about this. If you're trying to
23 determine whether or not -- who you sold your firearms to,
24 would it make sense to say, "Hey, would you mind looking at
25 a photo spread" to see if he identified the person that he

1 might have sold it to?

2 But they want you to believe because it was sold
3 in Wylie and owned by somebody in Wylie and then he sold it
4 for cash, that it had to be Mr. Ashley because he lived in
5 Wylie and because he lived in Wylie, therefore, he carried
6 it through the Eastern District to the Northern District.

7 That's inference upon inference upon inference.
8 They're asking you to stretch your logic. And that goes
9 back to Count 18, that if you have a reasonable doubt of
10 whether he possessed or carried it, it's a not-guilty. You
11 stop right there. So they haven't proven that to you
12 beyond a reasonable doubt.

13 And then they want to talk about these Google
14 searches. But remember what we said in opening statement.
15 Timeline is going to be important, right? And so what did
16 the evidence tell you? The searches are done after
17 somebody has contacted him and provided him information,
18 first Mr. Freeman, the private investigator hired by the
19 family. So the timing of the searches is after that
20 information.

21 Then you see the information in September -- end
22 of August, beginning of September, September 3rd. That was
23 a big date. You heard testimony that Detective Bonner said
24 he had contact with Mr. Ashley that day and relayed
25 information to him that day. And so the information he's

1 looking up is the information they told him.

2 And look at the QTOF. There is no date on it; but
3 the QTOF is based off of what they told him or what's in
4 the autopsy report, information that he learned.

5 The searches are done after he's learned
6 something. Is it common sense to go, they said this, well,
7 what does that mean?

8 So they want to make it look as some type of
9 sinister thing, he's doing all these searches to cover his
10 tracks. He's doing the searches because somebody has told
11 him something he doesn't know anything about. Is that a
12 reasonable inference?

13 So put everything into context, for when he knew
14 it and when he learned it.

15 Then they want to talk about when he revoked his
16 executorship, the heat was on. Bonner stated he wasn't a
17 suspect yet. The autopsy wasn't even done. The private
18 investigator hadn't even started. Why resign?

19 Because they want to say, well, the heat was on.
20 He had to resign. It goes back to if the goal was to
21 steal, why would you tell anybody about what money was out
22 there? Why was a lawyer hired? Why was a private
23 investigator hired? Because he told Dida there's money
24 coming, so she hired a lawyer to probate the estate.

25 Why would you do that if your scheme is to control

1 everything?

2 And then we talk about the garage Nest cam being
3 activated. The inference is it must have been a gunshot.
4 No other camera in the house was activated; and we heard
5 testimony there was a camera in the living room, in the
6 kitchen.

7 They didn't preserve the video of that. You saw
8 the video and you hear the sound, but they don't show --
9 they didn't preserve the video for you to see it come on.

10 The acoustics are different.

11 And then I think Detective Bonner -- someone said
12 they manipulated the -- they had to manipulate the settings
13 on the camera because they weren't set -- they reset for
14 some reason.

15 So this idea that, oh, that's a gunshot, we
16 re-created it, can you really rely and act upon that
17 without any type of hesitation? Is that even remotely
18 reliable to you when they're asking you to find somebody
19 guilty of killing somebody else?

20 Then their narrative is he had specialized skills
21 in nursing and law enforcement. Inference, this helped him
22 commit the crime.

23 Actually, in actuality, as we said, everything he
24 did was recorded. Everything was out in the open and
25 traceable to him.

1 The gun was in Seegan's nondominant hand. He
2 wouldn't have committed suicide that way. But, of course,
3 the only evidence we have he was right-handed is what his
4 wife said. But there was some inconsistency about what she
5 said to the officer because remember Detective Bonner
6 said -- "Did you ever hear that she gave him the code?" He
7 was like, "No, I never heard that before. That's the first
8 time I heard that." There's inconsistencies there.

9 And so, you know, the government wants to say
10 well, there are some indignities or we did something
11 improper. But this is a case that they've got to prove to
12 you beyond a reasonable doubt. Go through the evidence and
13 analyze that.

14 Also, the other thing, too, is about
15 inconsistencies. Remember he always locked the door. But
16 what did they find when they were there? The back door was
17 open. The gate was open. So all these details do matter.

18 And then this case does have reasonable doubt
19 because really what they said in closing and beginning is
20 the medical examiner got it wrong. She's a medical doctor.
21 Her job is to determine cause of death. And what did she
22 say in her findings? Based on the case history and the
23 available investigative information, she deemed it a
24 suicide. So what they're basically trying to say is even a
25 medical doctor with years of experience in the field of

1 pathology and autopsies was fooled.

2 And so -- and they talk about, too, that, well,
3 the fire captain saw that something wasn't right and this
4 wasn't right.

5 "Did she relay that to Detective Duncan?"

6 "Yes."

7 "Did she relay that to the medical examiner?"

8 Detective Bonner: "I believe she did." "Maybe
9 she did."

10 He didn't know for sure. But is it reasonable
11 that she had some information when she made that
12 determination? And when she makes that determination, she
13 knows what the toxicology results are. She still makes
14 that determination.

15 So then they keep investigating -- and you heard
16 this part, too -- and they go in and meet with her and say,
17 "Here's some evidence. We want you to look at it," really
18 to change her mind.

19 And what does she say? What did they learn?

20 "Well, could be; but I can't say what it is one way or the
21 other."

22 And she's willing to go to "undetermined." But
23 that is as far as the trained medical examiner is willing
24 to go.

25 And so they just want you to disregard what the

1 medical examiner does, what that trained professional said,
2 what she ruled based on her expertise and analysis in the
3 case.

4 And so when you say "undetermined," as hard as I
5 try, I just don't know for sure, that's a reasonable doubt.

6 Not guilty, as we said, doesn't equal innocent.
7 It simply means I'm not convinced beyond a reasonable
8 doubt.

9 Remember, if it were the most important of your
10 own personal affairs. I would at least hesitate. Would
11 you at least hesitate on the facts that you have before
12 you, on the counts that he's been charged with?

13 And so when you go back in the jury room with the
14 jury charge, just remember, one doubt, one unanswered
15 question, one hesitation, or one missed element, one missed
16 element, means only one verdict; and it's not guilty.

17 MS. RATTAN: Your Honor, I have to object. It's
18 not one doubt. That misstates the burden of proof. It's
19 just a misstatement.

20 THE COURT: Sustained.

21 MR. WHALEN: If there is one reasonable doubt --
22 you'll have the law. It's a reasonable doubt. If you have
23 one reasonable doubt, if it would cause you to hesitate to
24 act, it's a not-guilty.

25 Thank you.

1 THE COURT: Thank you.

2 Would the government like to conclude the
3 argument?

4 And before you do that, are y'all okay to continue
5 without a break? Are you okay finishing? If you want to
6 just stand and stretch a second before we start, anybody?
7 Just take a second. Everyone just stand and stretch.

8 Well, maybe I'm the only one. I needed to get up
9 and stand and stretch.

10 Okay. The jury does need a break, so let's go
11 ahead and just take a few minutes. If you want to go --
12 again, please don't discuss the case among yourself or
13 anyone else. And we'll just take 10, 15 minutes; and as
14 soon as you're ready, we'll come back and come down, okay?
15 Thank you.

16 (The jury exits the courtroom, 3:45 p.m.)

17 THE COURT: Okay. Anything further from either
18 side?

19 MS. RATTAN: No, your Honor.

20 MR. WHALEN: No, your Honor.

21 THE COURT: We'll just take 15 minutes or as soon
22 as the jury is ready, if it's less than that, we'll come
23 back and continue.

24 (Recess, 3:46 p.m. to 3:57 p.m.)

25 (Open court, defendant present, jury present.)

1 THE COURT: Please be seated.

2 Mr. Combs, if you would like to complete the
3 argument.

4 MR. COMBS: Thank you, your Honor.

5 So Keith Ashley committed the perfect crime, and
6 he's the perfect criminal to do it. He's an investment
7 advisor. Ladies and gentlemen, you are never going to see
8 another set of skills wrapped up into a tight little ball
9 like you find in Mr. Ashley.

10 He's an investment advisor. He has the money and
11 the trust of his clients. All of them trust him.
12 Mr. Greening trusted him. Mr. Seegan trusted him.
13 Mr. Willmon trusted him. Mr. Shteyngart trusted him.
14 Everybody trusted him.

15 They wrote him the checks because he told them
16 that their money was safe with him. Told Mr. Greening,
17 "Everything I do is tracked by Parkland. They're going to
18 know everything we're doing." He had their money, and they
19 trusted him with it.

20 But that's not enough to commit this crime. He
21 was a life insurance agent, too, which means that he had
22 the means to ensure that his clients were worth more dead
23 than alive, to him.

24 Paul Villarreal, a man who picked up cans on the
25 side of the road to make ends meet before he came to work

1 at Mr. Ashley's brewery and doing Mr. Ashley's lawn work.
2 That's Paul Villarreal. He wasn't a rich man. He was just
3 a normal guy trying to make ends meet. But he certainly
4 was worth more dead than alive to Mr. Ashley, and that's
5 why Mr. Ashley lied on the life insurance form and put
6 himself down as the stepbrother of Paul Villarreal.

7 Why did he make that lie? To make sure that he
8 was worth more dead than alive. That's why he did it.
9 That's why he did what he did to Mr. Seegan.

10 He's a life insurance agent. He has the trust of
11 a life insurance company, Midland. He has the trust of his
12 investment clients.

13 He's a former police officer. He knows how to
14 stage a suicide and cover his tracks.

15 You heard a suggestion by the defense that even a
16 medical doctor was fooled. First of all, she's not a
17 police officer.

18 Secondly, she wasn't investigating the crime.

19 And, third, she hadn't been planning it for months
20 or years like Keith Ashley had. She knew what she knew at
21 the time, which was far less than you know today.

22 And he knew how to stage a suicide and cover his
23 tracks. He was a police officer for several years. He
24 knew how to get his hands on an untraceable weapon. He
25 knew how to make sure that there weren't any fingerprints

1 found at the crime scene. He knew what he needed to do.
2 And we'll talk about that in a few minutes.

3 And he was an emergency room nurse, and that's
4 what completes the picture of him being the perfect
5 criminal in this case. He had access to a very unusual
6 drug, extremely unusual drug that incapacitates you in
7 seconds and you wake up from in minutes. It's used only in
8 emergency rooms and the ambulances, two places he has
9 access to. And he knows how to use them.

10 You saw, of course, that he had drawn out that
11 very drug just a month before he killed Mr. Seegan. You
12 know he had access to it.

13 And he was a very skilled medical professional,
14 too. He wasn't just any nurse off the street, as
15 impressive as that is. He's a guy who Mr. Greening met
16 when Mr. Greening hired him to be an expert witness in one
17 of Mr. Greening's cases. Mr. Ashley was one of these
18 people who came in and testified as an expert witness in a
19 case, because he has so much knowledge and so much skill
20 that he's qualified to be an expert.

21 Oh, no, he was the perfect criminal for this
22 crime. He knew absolutely everything you have to know to
23 get away with it, or he thought he did.

24 Ladies and gentlemen, the defense wants to focus
25 on a bunch of different questions; and their questions are

1 where did it happen, right? You're going to hear -- you
2 heard from Ms. Rattan and you're going to hear from the
3 judge that the venue question is not that hard, right?
4 Because at the end of the day criminals can't get out of
5 their crime by crossing county lines all day.

6 You can't commit a murder and get away with it by
7 saying, "No, I lived here and had my business here, no, I
8 was -- I did the crime there." It just doesn't work like
9 that. Anytime the crime is begun, continued, and completed
10 in one district and it continues on to another -- which
11 happens all the time. You don't get away with the crime
12 because of that.

13 And you only have to find that by preponderance of
14 the evidence. So that's a red herring and don't let it
15 distract you. You've received a lot of evidence on venue,
16 going through every single count in the Indictment. It's
17 overwhelming. It's well beyond preponderance of the
18 evidence. It's really not an issue in this case.

19 What about the gift and the Promissory Notes?
20 Where were they found? They were found in Mr. Ashley's
21 house, right?

22 What do you know about Mr. Ashley? Well, he's a
23 thief. He took all the investors' money. He's a person
24 who is adept at signing other people's signatures. He
25 signed Dida's signature on an important life insurance

1 document, the change of beneficiary form.

2 So he knows how to dummy up documents, and he
3 knows -- at the time that his house is searched months
4 after the crime is committed, he knows the police are
5 coming looking for him. Why do you think he's doing all
6 those Google searches?

7 So he's got to come up with a reason for having
8 Mr. Seegan's money because, make no mistake, Mr. Seegan is
9 a businessman. He didn't give \$290,000 to Keith Ashley as
10 a gift. Come on. It didn't happen.

11 And to say that he gets away with his fraud, the
12 \$150,000 that went into his bank account and immediately he
13 spent it and used it on the Ponzi scheme because he dummed
14 up a gift note the same way he dummed up a suicide note,
15 it doesn't wash. Ashley was covering his tracks.

16 They want to ask was there a misrepresentation.
17 That's what much of the defense argument was spent talking
18 about. Was there really a misrepresentation? I mean, you
19 know, when they're talking -- he's talking to the insurance
20 company, he not really misrepresenting anything. Was there
21 really a fraud on them?

22 Well, ladies and gentlemen, first of all, the
23 instructions are -- that you're going to get from the judge
24 are that the scheme to defraud employed false material
25 representations or false material pretenses.

1 First, as to the misrepresentations, do you really
2 think that the insurance company would have issued any of
3 those changes of policies or done any of the paperwork they
4 did outlined in the counts if Mr. Ashley had said, "Hey,
5 I'm getting ready to shoot this guy in the head and I'm the
6 trustee; so, you know, we need to get this paperwork right.
7 Have you guys made the beneficiary change yet? Have you
8 done that?"

9 No, he didn't tell them that. Why didn't he tell
10 them that? Why did he withhold the true information and
11 give them false information? Because he knew what he was
12 going to do and they never would have made the change and
13 they would have called the police.

14 But you actually don't even have to have a false
15 material representation. You can have a false material
16 pretense. Well, what's a pretense? Well, it's a trick.
17 It's a sham. You say one thing and you're trying to get by
18 and you're tricking the person into doing something so that
19 you can benefit.

20 Well, that's exactly what he did. So was there a
21 fraud, a wire fraud involving the insurance company? Was
22 there mail fraud? Yes, absolutely.

23 Was there a robbery? Ladies and gentlemen, why,
24 why did he kill Mr. Seegan? To take his money. He didn't
25 have a grudge against him. They weren't enemies. He did

1 it to take it from his person; and that's the instruction
2 you're going to get is, in Count 18, that it's being done
3 to take it from a person or in his presence.

4 Now, the money was taken not in the presence of
5 Mr. Seegan because Mr. Seegan was at the mortuary at that
6 moment. But he did take it from his person.

7 And he also took it in the bank theft from the
8 custody of the bank. And that's all that's required in the
9 bank theft.

10 And what did he need to get out of the way before
11 he took it from the bank? He had to get Mr. Seegan out of
12 the way. And that's why it's a bank theft causing death.
13 If you look at the elements, listen to the Judge, it's not
14 difficult. Defense wants to trip you up. It is not
15 anything worth being tripped up over. It's easy.

16 Was Mr. Seegan's business affecting interstate
17 commerce? It's really not a question. It says in the
18 instructions that you'll get "however slight." You heard
19 that he had a rental property. He used interstate
20 businesses to service that property. You saw the thousands
21 of dollars that went to those businesses and -- you know,
22 Home Depot, Lowe's Google Nest and on and on. They are
23 companies engaged in interstate commerce, however slight;
24 and it did affect interstate commerce of Mr. Seegan's
25 business.

1 And, finally, he wanted to talk to you about why
2 did he resign the trusteeship so quickly if he -- if he had
3 something -- if he was really intending to get this money?
4 And what Mr. Whalen posited you in that regard was that,
5 no, look, he resigned it so, therefore, he must not have
6 been guilty of this thing at all.

7 But, ladies and gentlemen, on the day of
8 Mr. Seegan's death, Dida wasn't having it. She knew that
9 wasn't a suicide.

10 The fire department wasn't having it.

11 The police department, contrary to their normal
12 practice, called out two investigators and their crime
13 scene tech. And the crime scene tech said something very
14 interesting happened, very unusual, never happened before.
15 Mr. Ashley called them on the phone as they were leaving
16 the scene.

17 MR. WHALEN: Your Honor, that misstates the
18 evidence.

19 THE COURT: Overruled. It's up to the jury to
20 determine what the evidence is.

21 MR. COMBS: They were in the car -- Parker Powell
22 was in the car driving away, and Mr. Ashley called them on
23 the phone. They had it on speakerphone. And he started
24 rattling off all of the stuff that they had just read in
25 the suicide note.

1 He knew the police were looking at him, and he
2 knew the police was looking at him that night. That's why
3 he called them. That's why he was getting his alibi in
4 place. That's why he was getting his alibi in place as
5 soon as he left the home at 10:24. He's 3 minutes down the
6 street and he starts texting, saying "Hey, Bud, everything
7 is gonna be okay. It's gonna be all right." That's why he
8 does it.

9 Then he starts calling and he starts sending more
10 texts. But after he calls and he texts, he panics, right?
11 He calls and then 3 minutes later he's back at the house.
12 Why is he back at the house? Because he realized he forgot
13 something. We'll talk about that in a minute.

14 Ladies and gentlemen, he knew he was being looked
15 at. He knew he was being looked at that very night.
16 That's why he resigned the trusteeship. He knew the family
17 was not having it. His only chance to really get money --
18 he had to try and make what he could of the insurance
19 debacle that was unfolding before him; but he needed money
20 and his first, maybe last, best chance to get that money
21 was to get that \$20,000. And he did. He did.

22 He shot a man in the head and then went to the
23 man's house 36 hours later and asked that man's boy to put
24 in his fingerprint in the phone. Unbelievable.

25 What are the better questions? Defense asked you

1 a lot of questions. What are the better questions?

2 Where is the money, all his investment money?

3 Who brought the gun?

4 How did etomidate get in James Seegan's blood, and
5 where is the blood?

6 Well, Leonid Shteyngart's money, you know where
7 that is. That went to James Seegan. It went to retail
8 restaurants. It went to cash.

9 Robert Greening's money went to pay off other
10 investors, went to gambling. It went to cash. It went to
11 pay off Mr. Ashley's personal mortgage.

12 Denny Willmon's money, the same, to pay off other
13 investors and credit cards and his personal mortgage. None
14 of it's ever invested.

15 James Seegan's money, the worst of all, because
16 James Seegan isn't in here to come in and tell you that
17 "That was fraud being perpetrated on me. That wasn't a
18 gift, \$150,000 gift."

19 And to say that there is no evidence that he
20 didn't give him a gift when the man can't speak for himself
21 for one very clear reason -- and what happened to James
22 Seegan's money? It was all spent. Most of it was spent on
23 the casinos, cash, living the high life, and personal
24 mortgage.

25 And let's talk about Mr. Seegan's money. He

1 clearly did very well. He worked hard. But he lived in a
2 normal neighborhood, a normal neighborhood, just a small
3 front yard, small backyard, house right next to the other
4 house, just a normal house, a normal guy raising his son in
5 a normal neighborhood.

6 Where is Mr. Seegan's money? Mr. Seegan's money
7 is right there in front of you, in Keith Ashley's house.
8 That's where Mr. Seegan's money is, in that estate. If you
9 look closely at the pool, you're going to see the palm
10 trees behind it, four palm trees. You've got the large
11 house, got the pool house behind it, got the car with the
12 trailer out front. Oh, yeah, Mr. Ashley's living well on
13 Mr. Seegan's money. He's living very well on it. That's
14 where his money is.

15 Who brought the gun? Mr. Seegan had -- rather,
16 Mr. Seegan had no gun, none at all.

17 He did. That gun got to that house on this day,
18 February 19th, somehow. And there's only one person who
19 came to that house, only one person who came to that house
20 that day; and that's him. That's how that gun got to that
21 house.

22 You know that you, sadly, heard the shot that
23 killed James Seegan at 10:15 a.m. on that Nest camera. And
24 we went through minute by minute how Mr. Ashley left his
25 house, traveled to his brewery, stayed at the brewery for a

1 little while. Minute by minute by minute we walked through
2 every tower he was hitting all the way down to James
3 Seegan's house, and there were no stops in between. That
4 gun started in the Eastern District. Begun, completed, or
5 continued, that's the venue. Begun, completed or
6 continued. He carried that firearm in the Eastern District
7 of Texas on his way to go murder James Seegan. That's the
8 crime, right? That's the crime.

9 So who brought the gun? Mr. Ashley brought that
10 gun. Of that, there is absolutely no doubt.

11 How did etomidate get in James Seegan's blood?
12 How? Well, it's a question that's easily answered. You
13 heard some evidence -- or argument, rather, from the
14 defense that, well, you know, it was a hospital. They were
15 lax and, you know, who knows, you know, what happened with
16 the etomidate.

17 One person saw Mr. Seegan that day. One person,
18 and that's him.

19 Paramedics, fire department, they didn't even try
20 and revive Mr. Seegan, for obvious reasons. There was no
21 etomidate in his blood from them. There was no etomidate
22 in his blood from medical procedures; he had none.

23 He certainly didn't give it to himself. You heard
24 Dr. Hail testify that that's just not medically possible.
25 You wouldn't be able to shoot yourself with etomidate,

1 dispose of that blood vial -- or that vial of etomidate,
2 dispose of the syringe, and clean up the area and then
3 shoot yourself. You just wouldn't be able to do it. And
4 even if you could, how would he get it?

5 No. One person had access to it and one person
6 did it, and that's Keith Ashley.

7 Ladies and gentlemen, while I'm thinking about it,
8 I forgot to hit an important point; and before I go on, I
9 want to make sure I hit it with you.

10 Take a close look at -- I want to point out two
11 things that were confusing in the argument you just heard,
12 and I just want you to make sure you take a close look at
13 them. First of all, it's as to Count 14. There is an
14 insinuation that Count 14 -- and that is the transfer of
15 the \$20,000 after -- out of Mr. Seegan's bank account after
16 his death, okay? It's all wrapped up in the murder. It's
17 that transfer of the \$20,000.

18 There was talk from the defense that that -- you
19 have to acquit on that because it has no relation to
20 Midland, okay? That's true. It has no relation to
21 Midland. It's Texas Capital Bank. That's the bank account
22 that we're dealing with here.

23 And you're going to have the Indictment. If you
24 read the Indictment, it's very clear. We're dealing with
25 the Texas Capital Bank; we're not dealing with Midland

1 life. So I'm not sure where that came from, but I wanted
2 to make sure we cleared that up before we went any further
3 and were talking about the murder.

4 But the other thing, as long as we're talking
5 about that, there was this idea that in regard to that, the
6 \$20,000, the transfer of the \$20,000 out of Mr. Seegan's
7 account, that it had to be, Mr. Whalen suggested, at the
8 same time or contemporaneous with the killing. And that's
9 not the case. That's not the instruction you're going to
10 get. That's not the verdict.

11 Here's what the verdict is going to say. It says,
12 with respect to Count 19, did the defendant, in committing
13 the violation, kill any person? It's got some other
14 language in there, but the first part is "in committing the
15 violation." It doesn't say "at the same time as committing
16 the violation"; it says "in committing the violation."

17 Well, I would tell you that the evidence shows
18 that the murder of Mr. Seegan, right here, was done for
19 this purpose. That's why he did it. In committing this
20 violation, he did kill somebody, because he couldn't just
21 walk into Mr. Seegan's house on February 21st if Mr. Seegan
22 is alive and say, "Hey, is your son available? I'd like
23 him to open up your phone so I can transfer money out of
24 your bank account. You cool with that?"

25 Does anybody here believe that would have

1 happened? No, that wouldn't have happened. Of course not.
2 The only way this happens is if this happens.

3 So in committing this offense, the murder is
4 committed. That's how it happened, using the etomidate,
5 using the gun. So don't get confused with that language.
6 It's actually not all that confusing, but I wanted to make
7 sure that we addressed it.

8 But the last issue I want to address with you is
9 where is the blood? This is the issue -- this is what --
10 the etomidate, you can't get around. But this absolutely
11 cannot be explained in any way because there is no vial of
12 blood found at Mr. Seegan's home. There's no vial of blood
13 found at the defendant's home. None.

14 The insurance company said they didn't even need a
15 vial of blood, so why does Mr. Seegan have an appointment
16 saying "9:00 a.m. Keith blood"?

17 And why, at 9:00 a.m., does Mr. Seegan not
18 arrive -- I mean Mr. Ashley not arrive at Mr. Seegan's
19 "Keith blood" appointment? Well, you heard why. Because
20 when Dida testified -- it moved quickly and it was early in
21 the trial and it may not have been all that significant to
22 you at the time, but it is very significant. She said she
23 was running late. She didn't get out of the house at 9:00
24 like she normally did.

25 Mr. Ashley was waiting because he couldn't very

1 well go in the home while Dida was there. He's waiting.
2 She leaves about 9:05, and he comes about 9:31.

3 So he arrives at the house. There's no need for
4 any blood. There's no blood vial ever found. So where is
5 the blood? Well, I would tell you that Mr. Ashley got the
6 blood he was coming for. That is the blood that Mr. Ashley
7 was coming for, right there. There is the blood.

8 I'll tell you where else the blood is. You can
9 put on all the rubber gloves in the world. You can put on
10 all the gowns in the world and face masks and head
11 coverings and booties in the world, and he is never going
12 to get the blood off his hands. The blood is on his hands.
13 It doesn't matter how many pairs of rubber gloves he
14 carried in that backpack to cover his tracks. He can wash
15 his hands from now until eternity, but that blood remains
16 there. That's where the blood is as we sit here today.

17 And you know what? On his subconscious level he
18 knew it, because when he panicked a few minutes later and
19 came back to the house to try and cover his tracks, he knew
20 darn well that there was blood on his hands. Watch those
21 hands.

22 (Visual presentation to the jury.)

23 He's calm, cool, and collected the first time he
24 comes in; and look at those hands when he comes a second
25 time. He can't control the shaking. Why? Because he

1 knows what he just did. He took an innocent human being's
2 life for his greed.

3 James Seegan's hands. It's a picture that was in
4 evidence. That's Mr. Seegan's hand. His hands are never
5 going to hug his son. They're not going to hand his son a
6 Christmas present this Christmas or any other Christmas.
7 They're not going to answer the phone when his son calls,
8 not gonna hold his grandchild; and they're not going to
9 hold his son's hand.

10 And do you know what the most disgusting fact of
11 it all is? When he posed that firearm, this firearm, when
12 he put that in James Seegan's hand, he was the last person
13 to ever hold James Seegan's hand in this world.

14 And the next thing he did was go to James Seegan's
15 son and ask him to open your dad's phone. That's what he
16 did.

17 Ladies and gentlemen, justice is in your hands
18 now. Justice demands a verdict of guilty on all of the
19 counts charged.

20 THE COURT: Thank you, Mr. Combs.

21 Well, ladies and gentlemen, at this point -- it
22 will probably take me 45 minutes to an hour to read the
23 charge. So what we're going to do is we're going to stop
24 for the day and then when we come back in the morning at
25 9:00, I will go ahead and read my instructions and then it

1 will be in your hands.

2 So even though you've heard all the argument of
3 both sides, you still can't talk about the case among
4 yourself or anyone else. You can't have any deliberations
5 until I give you my final instructions in the morning, and
6 then it will be in your hands.

7 And, again, please don't look at any newspaper
8 coverage or news media coverage. Don't get on social
9 media. Don't look at anything about the case and just
10 follow all my other instructions.

11 So we'll start back tomorrow morning at 9:00.
12 Please have a safe drive home, and we'll see you back
13 tomorrow morning at 9:00. Thank you.

14 (The jury exits the courtroom, 4:29 p.m.)

15 THE COURT: Anything further from the government?

16 MS. RATTAN: Your Honor, we would move to replace
17 the physical exhibits with photos.

18 THE COURT: Well, I guess you want to make that
19 motion after the verdict?

20 MS. RATTAN: Yes, your Honor.

21 THE COURT: Okay.

22 MS. RATTAN: Okay.

23 THE COURT: Well, you don't want to do that now, I
24 mean -- so -- for the jury deliberations, I assume.

25 Okay. Anything further from defense?

1 MR. WHALEN: No, your Honor.

2 THE COURT: Just remember to do that after the
3 verdict so --

4 MS. RATTAN: Yes, your Honor.

5 THE COURT: And then I would just ask counsel --
6 we're going to wait and print the jury charge for the jury
7 at 8:00 in the morning. If you want to look at it again
8 tonight to see if there is any -- to make sure we made
9 all -- effectuated every change. You didn't have a lot of
10 time to make sure that we made every change that we
11 discussed, if you want to look at that. You may not want
12 to look at it. That's fine. But if you do, just email my
13 lawyer if you see anything and again -- because we are
14 going to print it at 8:00 in the morning.

15 Okay. If nothing further, I'll see y'all tomorrow
16 at 9:00. Thank you.

17 (Proceedings adjourned, 4:31 p.m.)

18 COURT REPORTER'S CERTIFICATION

19 I HEREBY CERTIFY THAT ON THIS DATE, OCTOBER 31,
20 2022, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD
21 OF PROCEEDINGS.

22

23 /s/
24 CHRISTINA L. BICKHAM, CRR, RDR

25